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THE MOBILE HOME WARRANTY ACT
AND CONSUMER PROBLEMS WITH MOBILE HOMES

A Report by the Consumer Protection Section,
Department of Law,
February 4, 1984

Introduction

Mobile homes have become a major housing alternative for Alaskans, one which often involves considerable expense. Ranging in price from \$10,000 to well over \$100,000 (not including land), mobile homes in the state sold for an average of \$40,263 in mid-1984, as reported by the Alaska Housing Finance Corporation. Often mobile homes are purchased by consumers who lack the income needed for conventional housing and who are less able to protect themselves from defective products and unfair sales techniques. Yet unlike conventional housing, mobile home construction is not subject to regulation or inspection by local or state authorities, nor is the sale of mobile homes subject to professional licensing requirements.

Apart from the Department of Law's general enforcement powers against unfair or deceptive trade practices, state efforts to prevent and remedy the widespread problems confronted by mobile home purchasers rest solely on the mobile home warranty act, AS 45.30. The Consumer Protection Section's recent experience in administering this act shows that defects in mobile homes and consumers' problems in obtaining corrective action continue to be frequent occurrences and continue to demand significant efforts on the part of the section.

Background of the Mobile Home Warranty Law

In 1980, the Legislature acted to ensure that consumers receive adequate warranty protection when they purchase mobile homes. (Ch. 104, SLA 1980, amending AS 45.30.) This statute requires new mobile homes to be covered by a one-year written warranty against substantial defects in materials and workmanship. One important provision of the mandated warranty is that the dealer and manufacturer are each fully responsible for correcting defects, so that the consumer is not shuttled back and forth with no one taking responsibility. Another important provision is that the warranty must cover not only the structure of the mobile home but also all mechanical systems, equipment, and appliances included when it is sold.

The statute also establishes a method to enforce compliance. Written notices of violations may be issued by a

state inspector, and the enforcement agency may hold administrative hearings on alleged violations. When it is determined, following such a hearing, that a dealer or manufacturer has violated a provision of the law, the violator may be ordered to take corrective action. Moreover, in appropriate cases the manufacturer's \$35,000 performance bond may be forfeited and the proceeds distributed to the injured parties.

The 1980 mobile home legislation did more than establish state warranty requirements; it also repealed existing portions of AS 45.30 which regulated mobile home construction standards. The reason for this repeal was not, it must be emphasized, a belief that such regulation was unnecessary. Rather, it was simply a matter of federal preemption. In 1976 the U.S. Department of Housing and Urban Development (HUD) had taken over the regulation of mobile home construction throughout the country. This meant the preemption of Alaska's construction standards program.

The HUD program, however, did not come close to eliminating many kinds of serious problems that frequently afflict purchasers of mobile homes. As pointed out in a 1980 Federal Trade Commission study of mobile home warranty problems, the scope of the HUD standards is limited and the agency's remedial powers when defects occur are "severely circumscribed." The construction standards, which cover only basic components and focus on safety concerns, do not protect consumers from defects in appliances, cabinetry, carpeting, ceiling tile or wall paneling, floor coverings, and so on; nor do they address damage occurring during transportation or set up. Equally important, inspection is required of a mobile home only once -- at any point -- during the manufacturing process, so that defects may readily occur which are not detected. Indeed, HUD has acknowledged that "no mobile home is completely without failures to conform to the Federal standards." Finally, once a mobile home has been purchased by a consumer, the only defects which HUD can require the manufacturer to correct are those which present an unreasonable risk of injury or death.

Thus, when the Alaska Legislature passed its mobile home warranty act, joining seventeen other states at that time with similar legislation, it did so in recognition of the need to fill a major gap in the legal protection provided to consumers. The House committee which recommended passage of the act had before it a report from the Attorney General's Consumer Protection Section analyzing complaints within the past two years from some 68 consumers having problems with mobile homes. In addition to multitudinous defects reported in interior construction, exterior construction, plumbing, appliances, electrical systems, and plumbing systems, a common thread running through the consumers'

experience was a lack of response from dealers and manufacturers to their complaints. Long delays in merely getting someone to look at the problem were common, and in many cases the defects remained uncorrected even after repeated attempts at repair. Experience since that time amply demonstrates the continuing importance of the warranty law.

Recent Consumer Protection Section
Experience with Mobile Home Problems

Since the enforcement of the mobile home warranty act was administratively transferred to the Consumer Protection Section in May of 1983, the section has handled 65 complaints and has responded to over 96 inquiries and requests for assistance. Although most consumer mobile home complaints involve several individual problems that the consumer has experienced, the major focus of complaints received during the past year and a half may be summarized as follows:

1. Defects in materials and workmanship	27%
2. Misrepresentative sales techniques	46%
3. Shoddy repair services	16%
4. Mobile home park and other problems	11%

Specific mobile home related complaints include but are not limited to the following:

1. Doors and windows that will not open or close properly.
2. Cracked sinks and bathtubs.
3. Overly expensive to operate or inadequate heating systems.
4. Excessively high interior humidity
5. Buckling walls and separating components.
6. Misrepresentations about the ability to qualify for a loan, or about the outcome or penalty resulting from not qualifying for or not obtaining a loan to purchase a mobile home.
7. Settling of mobile homes resulting from inadequate or improper setup procedures.
8. Numerous failed attempts to repair mobile home defects by unqualified service persons.
9. Misrepresentations of the authority of a salesperson.
10. Failure to deliver title.

Although a report regarding consumer problems with their mobile homes must be brief, because as one consumer wrote to Consumer Protection just last week "there isn't enough paper in Alaska to state the dissatisfaction we've experienced," a few specific examples will help provide a clear understanding of the seriousness of consumer mobile home problems.

During the past year, three purchasers of a particular brand of mobile home complained to the Consumer Protection Section that the roofs on the mobile homes were leaking severely and that they had been unable to obtain a remedy from either the manufacturer or dealer. The consumer found that the dealer had "disappeared" and the manufacturer's response was that the consumers needed to shovel their roofs more adequately in the winter time (despite the dealer's original claim that their roofs were specially designed for "Alaska conditions"). Yet only a minor amount of snow had accumulated on them, and moreover the manufacturer's own "homeowners manual" stated that the roofs should not be climbed or walked on. Although the manufacturer's warranty had expired on two of the mobile homes, through mediation and negotiation the Consumer Protection Section obtained for the consumers new roofs and a one year warranty from the manufacturer that the structure of the roof would remain free from defects.

After resolution of the complaints one of the consumers confided that had the problem not been resolved he would have had to leave his home. It should be pointed out that since February of 1984, 56 mobile homes purchased between 1980 and 1984 were repossessed. According to AHFC personnel many of these homes were abandoned by their owners. With a 17% increase in the cost of a new mobile home between 1983 and 1985 and a slight decrease in the average monthly income of a new mobile home purchaser during the same period, it has become increasingly difficult for mobile home consumers to bear the burden of major defects such as these.

Many consumer complaints have involved the formation of large amounts of condensation on interior surfaces of their mobile homes. In many instances this leads to wet and ruined walls and carpets; in one case a consumer reported mushrooms growing on the floor. Homes inspected by this section have been found to possess warped ceilings, floors and walls. In some cases permanent fixtures such as bathtubs and toilet bowls have begun to sink through the floors. Often manufacturers respond to these problems with allegations that the consumer is improperly ventilating or utilizing the mobile home.

In other recent complaints consumers stated that they ordered mobile homes with particular features and amenities to be included by the manufacturer. They found, however, that when the mobile homes arrived many of these features were not included with the homes. Although the purchase agreements clearly stated that these items would be included, the dealer claimed that the consumer had agreed to accept the home without them. One consumer stated that the dealer kept telling him that he would "take care of it"; the outcome is pending. Consumer Protection records show

What many consumers are promised features or amenities with their mobile homes and then find those features missing upon delivery. They also find that the homes are many times improperly installed and in fact the homes themselves have been damaged in transit or were not properly constructed in the first place.

During the past two and one half years the Consumer Protection Section has recovered over \$132,000 for consumers who experienced defects in their mobile homes or mobile home transactions.



Location of Consumer Protection Offices:

Anchorage

1031 W. 4th Avenue, Suite 110
Anchorage, AK 99501
279-0428

Fairbanks

1st National Center
100 Cushman, Suite 400
Fairbanks, AK 99701
456-8588

Juneau

S.S. Fuller Bldg.
4th & Harris, Suite 214
Pouch K
Juneau, AK 99811
465-3692

Valdez

P.O. Box 671
Valdez, AK 99686
835-2462

ALASKA CONSUMER PROTECTION LAWS

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Article 4. Unfair Trade Practices and Consumer Protection.

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Repeal of former article. — Section 1, ch. 246, S.L.A. 1970, repealed former Article 4, entitled "False or Misleading Advertising." The former article consisted of §§ 45.50.470 — 45.50.510 and derived from ch. 86, S.L.A. 1961.

Sec. 45.50.471. Unlawful acts and practices. (a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are declared to be unlawful.

(b) The terms "unfair methods of competition" and "unfair or deceptive acts or practices" include, but are not limited to, the following acts:

- (1) fraudulently conveying or transferring goods or services by representing them to be those of another;
- (2) falsely representing or signating the geographic origin of goods or services;
- (3) causing a likelihood of confusion or misunderstanding as to the source, sponsorship, or approval, or another person's affiliation, connection, or association with or certification of goods or services;
- (4) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;
- (5) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, secondhand, or seconds;
- (6) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (7) disparaging the goods, services, or business of another by false or misleading representation of fact;
- (8) advertising goods or services with intent not to sell them as advertised;
- (9) advertising goods or services with intent not to supply reasonable expectable public demand, unless the advertisement prominently discloses a limitation of quantity;

(10) making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

(11) engaging in any other conduct creating a likelihood of confusion or of misunderstanding and which misleads, deceives or damages a buyer or a competitor in connection with the sale or advertisement of goods or services;

(12) using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with intent that others rely upon the concealment, suppression or omission in connection with the sale or advertisement of goods or services whether or not a person has in fact been misled, deceived or damaged;

(13) failing to deliver to the customer at the time of an installment sale of goods or services, a written order, contract, or receipt setting out the name and address of the seller and the name and address of the organization which he represents, and all of the terms and conditions of the sale, including a description of the goods or services, which shall be stated in readable, clear, and unambiguous language;

(14) representing that an agreement confers or involves rights, remedies or obligations which it does not confer or involve, or which are prohibited by law;

(15) knowingly making false or misleading statements concerning the need for parts, replacement, or repair service;

(16) misrepresenting the authority of a salesman, representative or agent to negotiate the final terms of a consumer transaction;

(17) basing a charge for repair in whole or in part on a guaranty or warranty rather than on the actual value of the actual repairs made or work to be performed on the item without stating separately the charges for the work and the charge for the guaranty or warranty, if any;

(18) disconnecting, turning back or resetting the odometer of a vehicle to reduce the number of miles indicated;

(19) using a chain referral sales plan by inducing or attempting to induce a consumer to enter into a contract by offering a rebate, discount, commission, or other consideration, contingent upon the happening of a future event, on the condition that the consumer either sells, or gives information or assistance for the purpose of leading to a sale by the seller of the same or related goods;

(20) selling or offering to sell a right of participation in a chain distributor scheme;

(21) selling, falsely representing or advertising meat, fish or poultry which has been frozen as fresh food;

(22) failing to comply with AS ~~45.05.125~~, AS 45.02.350

(23) failing to comply with AS 45.45.130 — 45.45.240;

(24) counseling, consulting or arranging for future services relating to the disposition of a body upon death whereby certain personal property, not including cemetery lots and markers, will be furnished or the professional services of a funeral director or embalmer will be furnished, unless the person receiving money or property deposits the money or property, and money or property is received, within five days of its receipt, in a trust in a financial institution whose deposits are insured by an instrumentality of the federal government designating the institution as the trustee as a separate trust in the name only of the person on whose behalf the arrangements are made with a provision that the money or property may only be applied to the purchase of designated merchandise or services and should the money or property deposited and any accrued interest not be used for the purposes intended on the death of the person on whose behalf the arrangements are made, all money or property in the trust shall become part of his estate; upon demand by the person on whose behalf the arrangements are made, all money or property in the trust including accrued interest, shall be paid to him; this paragraph does not prohibit the charging of a separate fee for consultation, counseling or arrangement services if the fee is disclosed to the person making the arrangement; any arrangement under this paragraph which would constitute a contract of insurance under AS 21 is subject to the provisions of AS 21;

(25) failing to comply with the terms of the Alaska Gasoline Products Leasing Act (AS 45.50.800 — 45.50.850).

(c) The unlawful acts and practices listed in (b) of this section are in addition to and do not limit the types of unlawful acts and practices actionable at common law or under other state statutes.

(d) [Effective until January 1, 1980] When a person is tried under the criminal provisions of this chapter for engaging in an unlawful act or practice under this chapter, it must be shown that he acted knowingly and with intent.

(d) [Effective January 1, 1980] Repealed by § 21 ch 166 SLA 1978. (§ 2 ch 246 SLA 1970; am § 1 ch 53 SLA 1974; am § 1 ch 138 SLA 1974; am § 1 ch 183 SLA 1975; am § 2 ch 146 SLA 1976; am § 3 ch 197 SLA 1976; am § 3 ch 234 SLA 1976; am § 21 ch 166 SLA 1978)

Effect of amendments. — The first 1974 amendment rewrote this section.

The second 1974 amendment added paragraph (21) of subsection (b).

The 1975 amendment added paragraph (22) of subsection (b).

The first 1976 amendment, effective

Editor's note. — The paragraph added to subsection (b) by § 3, ch. 197, SLA 1976, was designated paragraph (23) in the act. The paragraph added to subsection (b) by § 3, ch. 234, SLA 1976, was designated paragraph (22) in the act.

Section 1, ch. 234, SLA 1976, effective

period of time was reasonable, or whether a price was in good faith, the following factors will be considered: the particular merchandise or industry, the season, the number sold at the higher price, shelf life, and other material factors. If a seller has openly and actively offered a good faith price for the 14 selling days immediately before a price reduction, it will be presumed that the higher price was offered for a reasonable period of time in the recent, regular course of business. A seller may use a shorter period of time to establish a regular price, but the seller will then have the burden of showing that the shorter time was reasonable and that the higher price was a good faith price;

(7) "seller" means any person who offers merchandise for retail sale;

(8) "trade area" means the geographic area where the seller does business as determined by the location of the media in which the advertisement is published and the predominant location of the residences of those customers to whom the advertisements are directed or to whom the seller mails advertisements. (Eff. 4/6/80, Reg. 74; am 7/26/80, Reg. 75)

Authority: AS 45.50.471
AS 45.50.491
AS 45.50.516

Editor's Note: For definitions in addition to those in this section (9 AAC 05.900), see AS 45.50.561.

9 AAC 05.900. DEFINITIONS. In this chapter

(1) "advertising" (including the terms "advertisement" and "advertise") includes the attempt directly or indirectly through publication, dissemination, solicitation, endorsement or circulation, display, including solicitation or dissemination by mail, telephone or door-to-door contacts, or in any other way, to induce a person to enter or not enter into an obligation or acquire title or any other interest in any merchandise or to increase the consumption of it or to make a loan;

(2) "disclose" means that the statement, representation, or term is presented clearly and conspicuously in the size, sound, color, or other contrasting manner that an ordinary person would readily observe it considering the circumstances, manner, and mode of presentation;

(3) "merchandise" means goods or services or a combination of goods and services;

(4) "person" includes a corporation, company, partnership, firm, association, institution, organization, business trust, or society, as well as a natural person;

(5) "price comparison" means the comparison in any advertisement of the seller's current price for merchandise with any other price or statement of value for the merchandise or the making of other claims of price reduction or savings with respect to that merchandise in comparison to other merchandise;

(6) "regular price" means the actual, good faith price at which the seller openly and actively offered the merchandise to the public on a regular basis, for a reasonable period of time in the recent, regular course of the seller's business. In determining whether merchandise was openly and actively offered, whether a

January 1, 1977, added paragraph (23) of subsection (b).

The second 1976 amendment, effective January 1, 1977, added paragraph (24) of subsection (b).

The third 1976 amendment, effective July 1, 1976, added paragraph (25) of subsection (b).

The 1978 amendment, effective January 1, 1980, repealed subsection (d), which read "When a person is tried under the criminal provisions of this chapter for engaging in an unlawful act or practice under this chapter, it must be shown that he acted knowingly and with intent."

July 1, 1976, provides: "Findings of the legislature. The legislature finds and declares that since the distribution and sales, through lease agreements, of gasoline in the state vitally affect the economy of the state, the public interest, welfare, and transportation, it is necessary to define the relationships and responsibilities of the parties to certain agreements pertaining to leasing."

Legislative committee report. — For report on ch. 246, SLA 1970 (FCCS 2d HCS CSSB 252), see 1970 House Journal, p. 1546; 1970 House Journal Supplement No. 10; 1970 Senate Journal, p. 1295.

Sec. 45.50.472. Junk telephone calls. (a) Making a junk telephone call without the prior written consent of the person called is unlawful.

(b) In this section "junk telephone call" means a telephone call made for the purpose of advertising through the use of a recorded advertisement.

(c) The provisions of AS 45.50.481 — 45.50.561 apply to this section. (§ 1 ch 17 SLA 1978)

Sec. 45.50.481. Exemptions. Nothing in §§ 471 — 561 of this chapter applies to

(1) an act or transaction regulated under laws administered by the state, by any regulatory board or commission, or officer acting under statutory authority of the state or of the United States, unless the law regulating the act or transaction does not prohibit the practices declared unlawful in § 471 of this chapter;

(2) an act done by the publisher, owner, agent, or employee of a newspaper, periodical or radio or television station in the publication or dissemination of an advertisement, when the owner, agent or employee did not have knowledge of the false, misleading or deceptive character of the advertisement or did not have a direct financial interest in the sale or distribution of the advertised product or service;

(3) an act or transaction regulated under AS 21.36 or AS 06.05 or any regulations promulgated under authority of those chapters. (§ 2 ch 246 SLA 1970; am §§ 2, 3 ch 53 SLA 1974)

Effect of amendment. — The 1974 amendment substituted "regulated" for "permitted" in paragraph (1), added the language beginning "unless the law

regulating the act or transaction" to the end of that paragraph, and added paragraph (3).

Sec. 45.50.491. Regulations. The attorney general, in accordance with the Administrative Procedure Act (AS 44.62), may adopt regulations interpreting and forms necessary for administering the provisions of §§ 471 — 561 of this chapter. (§ 2 ch 246 SLA 1970; am § 4 ch 53 SLA 1974)

Effect of amendment. — The 1974 amendment substituted "attorney general" for "commissioner of commerce."

Sec. 45.50.495. Investigative power of attorney general. (a) If the attorney general has cause to believe that a person has engaged in, is engaging in or is about to engage in, a deceptive trade practice under § 471 of this chapter, he may

(1) request the person to file a statement or report in writing, under oath, on forms prescribed by him, setting out all facts and circumstances concerning the sale or advertisement of property by the person, and other information considered necessary;

(2) examine under oath any person in connection with the sale or advertisement of property;

(3) examine property or sample of the property, record, book, document, account or paper that he considers necessary;

(4) make true copies of records, books, documents, accounts, or papers examined under (3) of this subsection which may be offered in evidence in place of the originals in actions brought under §§ 471 — 561 of this chapter; and

(5) under an order of the superior court, impound samples of property which are material to his investigation and retain the sample until proceedings undertaken under §§ 471 — 561 of this chapter are completed.

(b) The attorney general, in addition to other powers conferred on him by this section, may issue subpoenas to require the attendance of witnesses or the production of documents or other physical evidence, administer oaths, and conduct hearings to aid an investigation or inquiry. Service of an order or subpoena shall be made in the same manner as a summons in a civil action in the superior court. (§ 5 ch 53 SLA 1974)

Sec. 45.50.501. Restraining prohibited acts. (a) When the attorney general has reason to believe that a person has used, is using, or is about to use an act or practice declared unlawful in § 471 of this chapter, and that proceedings would be in the public interest, he may bring an action in the name of the state against the person to restrain by injunction the use of the act or practice. The action may be brought in the superior court in the judicial district in which the person resides or is doing business or has his principal place of business in Alaska, or, with the consent of the parties, in any other judicial district in the state.

(b) It is an unfair or deceptive act or practice for any seller to advertise merchandise when the merchandise is not immediately available in the trade area unless the advertisement discloses that the item is not available in the trade area and, if not available, that shipping and handling costs are extra if they are not included in the price advertised. A catalog which gives tables for calculating shipping and handling costs meets the requirements of this section. (Eff. 4/16/80, Reg. 74; am 7/26/80, Reg. 75)

Authority: AS 45.50.471(a)

AS 45.50.471(b)(4)(6)(8)(9)

(11)(12)

AS 45.50.491

9 AAC 05.050. ADVERTISING REDUCTIONS ON ITEMS IN A GROUP. It is an unfair or deceptive act or practice for any seller to advertise price reductions on a group of differently priced items using phrases such as "as low as" or "up to 50 percent off" which merely identify the lowest reduced price in the group or the highest percentage or amount of price reduction in the group, if the lowest price or the highest percentage or amount of price reduction is not reasonably representative of a substantial number of the varied items in the group. Advertisements are presumed to meet the requirements of this section when the seller

(1) discloses in what way the items advertised at the lowest price or the greatest price reduction are not representative of the varied items in the group, such as by stating what portion of the total group of items are at the lowest price or subject to the greatest price reduction; or

(2) discloses both the highest and lowest reductions in prices for the advertised group; or

(3) states accurately that the prices of a group of items are reduced by a uniform amount or percentage, such as "all sofas 30 percent off." (Eff. 4/6/80, Reg. 74)

Authority: AS 45.50.471(a)

AS 45.50.471(b)(11)

AS 45.50.491

(4) which is based upon a comparison of price with the price of merchandise materially different in composition, grade or quality, style or design, model, name or brand, kind or variety, or service and performance characteristics, unless the general nature of the differences is disclosed in the advertisement. (Eff. 4/6/80, Reg. 74; am 7/26/80, Reg. 75)

Authority: AS 45.50.471(a)
AS 45.50.471(b)(10)
AS 45.50.491

9 AAC 05.040. AVAILABILITY OF ADVERTISED MERCHANDISE. (a) It is an unfair or deceptive act or practice for any seller to advertise merchandise for sale at a stated price, if the seller

(1) does not have the merchandise readily available at or below the advertised price in quantities normally sufficient to meet a reasonably expected public demand during the effective period of the advertised price, unless the seller is able to demonstrate that it ordered sufficient quantities of the advertised merchandise in adequate time for delivery; or

(2) fails to disclose in the advertisement all reasonably foreseeable exceptions, limitations and restrictions with respect to the availability of the merchandise, including but not limited to quantities of advertised merchandise available, quantities of advertised merchandise which may be purchased by an individual consumer, limitations on availability at individual stores in a chain, and limitations as to the length of the sale; or

(3) uses any text, statements, illustrations, drawings, or photographs in advertisements which do not fairly describe or depict or which are not representative of the advertised merchandise.

(b) The court may make additional orders or judgments that are necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of an act or practice declared to be unlawful by § 471 of this chapter. (§ 2 ch 246 SLA 1970)

Sec. 45.50.511. Assurances of voluntary compliance. In the administration of §§ 471 — 561 of this chapter, the attorney general may accept an assurance of voluntary compliance with respect to any act or practice considered to be violative of §§ 471 — 561 of this chapter from a person who has engaged or was about to engage in such an act or practice. Such an assurance shall be in writing and shall be filed with and is subject to the approval of the superior court in the judicial district in which the alleged violator resides or is doing business or has his principal place of business in Alaska. Such an assurance of voluntary compliance is not considered an admission of violation for any purpose. Matters closed in this way may at any time be reopened by the attorney general for further proceedings in the public interest, under § 501 of this chapter. (§ 2 ch 246 SLA 1970)

Sec. 45.50.521. When information and evidence confidential and nonadmissible. (a) Repealed by § 6 ch 53 SLA 1974.

(b) Subject to the provisions of § 501(a) of this chapter, the attorney general may not make public the name of a person alleged to have committed an act or practice declared unlawful in § 471 of this chapter during an investigation conducted by him under §§ 471 — 561 of this chapter, nor are the records of investigation or intelligence information of the attorney general obtained under §§ 471 — 561 of this chapter considered public records available for inspection by the general public. However, the attorney general is not prevented from issuing public statements describing or warning of a course of conduct or a conspiracy which constitutes or will constitute an unlawful act or practice, whether on a local, state, regional, or national basis. (§ 2 ch 246 SLA 1970; am § 6 ch 53 SLA 1974)

Effect of amendment. — The 1974 amendment repealed subsection (a).

Sec. 45.50.531. Private and class actions. (a) A person who purchases or leases goods or services and thereby suffers an ascertainable loss of money or property, real or personal, as a result of another person's act or practice declared unlawful by § 471 of this chapter, may bring a civil action in the judicial district in which the seller or lessor resides or has his principal place of business or is doing business, to recover actual damages or \$200, whichever is greater. The jury or, if the action is tried without a jury, the judge may, in cases of wilful violation, award up to three times the actual damages sustained,

and in all cases the court may provide equitable relief it considers necessary or proper.

(b) A person entitled to bring an action under this section may, after investigation by and approval of the attorney general, if the unlawful act or practice has caused similar injury to numerous other persons similarly situated and if he adequately represents the similarly situated persons, bring an action on behalf of himself and other similarly injured and situated persons to recover actual damages. A person planning to bring an action under this subsection shall first submit to the attorney general a copy of his proposed complaint, and he may not file the complaint in court without the attorney general's approval. In an action brought under this subsection, the court may in its discretion order, in addition to damages, injunctive or other equitable relief.

(c) Upon commencement of an action brought under this section the clerk of the court shall mail a copy of the complaint or other initial pleading to the attorney general and, upon entry of an order or judgment in the action, shall mail a copy of the order or judgment to the attorney general.

(d) In an action brought by a person under this section, the court may award, in addition to the relief provided in this section, reasonable attorney fees and costs.

(e) A permanent injunction or final judgment against a person against whom an action was initiated under § 501 of this chapter is prima facie evidence in an action brought under this section that the person used or employed an act or practice declared unlawful by § 471 of this chapter.

(f) No person may commence an action under this section more than two years after he discovers or reasonably should have discovered that his loss resulted from an act or practice declared unlawful by § 471 of this chapter.

(g) If the court finds for the defendant in an action brought under this section, it may award the defendant an amount equal to the actual costs and attorney fees he incurred in his defense.

(h) Manufacturers or suppliers of merchandise, the fault of which is the basis for the action under this chapter, are liable for the damages assessed to or suffered by retailers charged under this chapter. (§ 2 ch 246 SLA 1970; am § 1 ch 225 SLA 1976)

Effect of amendment. — The 1976 amendment deleted the former fourth sentence of subsection (b), which read "Also, in an action brought under this subsection, the plaintiff shall post bond of not less than \$5,000 and which is sufficient to cover costs and attorney fees which may be awarded under (g) of this section."

Sec. 45.50.511. Nonnegotiability of consumer paper. (a) If a contract for sale or lease of consumer goods or services on credit entered into between a retail seller and a retail buyer requires or involves the execution of a promissory note or instrument or other evidence of

the last date or period of time when the seller's regular price was in effect meets the requirements of this section. (Eff. 4/6/80, Reg. 74; am 7/26/80, Reg. 75)

Authority: AS 45.50.471(a)
AS 45.50.471(b)(10)(11)(12)
AS 45.50.491

9 AAC 05.030. PRICE COMPARISONS. It is an unfair or deceptive act or practice for any seller to advertise a price comparison

(1) which is based on any price other than the seller's own regular price, unless the seller discloses the nature and source of the referenced comparison price, such as "manufacturer's list price" or "comparable retail value." If the reference price is not a usual or customary retail price in the trade area, the seller may use the reference price if the seller discloses the location where it is a usual or customary retail price, such as "Seattle price"; or

(2) which is based on the difference between the price of a system, set, or group of items and the price of the items purchased separately, unless the seller in good faith has offered for sale the separate items at the referenced comparison price in the recent, regular course of business or unless the items are customarily sold as separate items; or

(3) which is based on words such as "wholesale," "at cost," "factory price," or similar words unless the price is in fact no greater than normal wholesale cost, including actual freight cost if paid by the seller; or

(1) advertises the existence of a reduced price which is not a materially significant reduction from the seller's regular price for the merchandise; or

(2) fails to disclose the period of time during which the advertised price will be effective if the time period is less than four days from the date of the advertisement; or

(3) uses a general headline or lead-in for advertised items indicating price reductions when any of the advertised items are not offered at a reduced price, unless the seller discloses in the advertisement which items are not offered at a reduced price or which items are offered at a reduced price.

(b) It is an unfair or deceptive act or practice for any seller to advertise merchandise for sale under special circumstances using phrases such as "selling out," or "going out of business," unless the retail outlet is in fact going out of business, and the advertised merchandise is permanently reduced in price to clear the merchandise.

(c) It is an unfair or deceptive act or practice for any seller to advertise merchandise for sale under special circumstances using phrases such as "must be sacrificed," unless the merchandise so advertised is permanently reduced in price to clear the merchandise.

(d) It is an unfair or deceptive act or practice for a seller to advertise the same merchandise as being "on sale" or reduced from the seller's regular price if, in fact, the "on sale" price is the price for which the goods are actually sold for more than six months out of any 12-month period, or, in the case of seasonal merchandise, for more than one-half of the time it is offered by the seller unless the price is permanently reduced to clear the merchandise. An advertisement in which the seller discloses

indebtedness of the buyer, the note, instrument or evidence of indebtedness shall have printed on its face the words "consumer paper," and the note, instrument or evidence of indebtedness with the words "consumer paper" printed on it is not a negotiable instrument within the meaning of Uniform Commercial Code (AS 45.05).

(b) Notwithstanding the absence of such a notice on a note, instrument or evidence of indebtedness arising out of a consumer credit sale or consumer lease as described in this section, an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease. An agreement to the contrary has no effect in limiting the rights of a consumer.

(c) The assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. (§ 2 ch 246 SLA 1970)

Cross reference. — As to form of negotiable instruments, see AS 45.05.252.

Sec. 45.50.542. Waiver. A waiver by a consumer of the provisions of §§ 471 — 561 of this chapter is contrary to public policy and is unenforceable and void. (§ 7 ch 53 SLA 1974)

Sec. 45.50.545. Interpretation. In interpreting § 471 of this chapter due consideration and great weight should be given the interpretations of sec. 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) made by the Federal Trade Commission and the federal courts. (§ 8 ch 53 SLA 1974)

Sec. 45.50.551. Penalties. (a) A person who violates the terms of an injunction or restraining order issued under § 501 of this chapter shall forfeit and pay to the state a civil penalty of not more than \$25,000 per violation. For the purposes of this section, the superior court in a judicial district issuing an injunction retains jurisdiction, and the cause shall be continued, and in these cases the attorney general acting in the name of the state may petition for recovery of the penalties.

(b) In an action brought under § 501 of this chapter, if the court finds that a person is using or has used an act or practice declared unlawful by § 471 of this chapter, the attorney general, upon petition to the court, may recover, on behalf of the state, a civil penalty of not more than \$5,000 per violation.

(c) [Effective until January 1, 1980] A person who engages in a course of conduct declared unlawful by § 471 of this chapter is, upon conviction, punishable by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both, but this subsection does not limit any other provision of §§ 471 — 561 of this chapter.

(c) [Effective January 1, 1980] Repealed by § 21 ch 166 SLA 1978. (§ 2 ch 246 SLA 1970; am § 9 ch 53 SLA 1974; am § 21 ch 166 SLA 1978)

Effect of amendments. — The 1974 amendment inserted "or by imprisonment for not more than one year or by both" in subsection (c). The 1978 amendment, effective January 1, 1980, repealed subsection (c), which contained a penalty for conduct declared unlawful by AS 45.50.471.

Sec. 45.50.561. Definitions. In §§ 471 — 561 of this chapter

(1) "advertising" includes the attempt directly or indirectly by publication, dissemination, solicitation, endorsement or circulation, display in any manner, including solicitation or dissemination by mail, telephone or door-to-door contacts, or in any other way, to induce directly or indirectly a person to enter or not enter into an obligation or acquire title or interest in any merchandise or to increase the consumption of it or to make a loan;

(2) "documentary material" means the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate;

(3) "examination" of documentary material includes the inspection, study, or copying of the material, and the taking of testimony under oath or acknowledgment in respect of documentary material or copy of it;

(4) "seconds" means manufactured items having flaws or consisting of a standard quantity or quality less than the manufacturer's quality standard;

(5) "chain distributor scheme" means a sales device whereby a person, upon condition that he make an investment, is granted a license or right to solicit or recruit for profit one or more additional persons who are also granted a license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted a license or right upon the condition of investment; a limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the license or right to solicit or recruit or the receipt of profit from these does not change the identity of the scheme as a chain distributor scheme; as used in this paragraph, "investment" means acquisition, for a consideration other than personal services, of tangible or intangible property, and includes but is not limited to franchises, business opportunities and services; "investment" does not include sales demonstration equipment and materials furnished at cost for use in making sales and not for resale;

(6) "consumer" means a person who seeks or acquires goods or services by lease or purchase;

(7) "knowingly" means actual awareness of the falsity or deception, but actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness;

(8) "fresh" means a condition of food which has never been frozen. (§ 2 ch 246 SLA 1970; am § 10 ch 53 SLA 1974; am § 2 ch 138 SLA 1974)

Effect of amendments. — The first 1974 amendment added paragraphs (5) -- (7). The second 1974 amendment added paragraph (8).

authority to occupy premises owned, leased or in any way controlled, directly or indirectly, by the refiner or distributor. (§ 2 ch 234 SLA 1976)

Sec. 45.50.850. Short title. Sections 800 — 850 of this chapter may be cited as the Alaska Gasoline Products Leasing Act. (§ 2 ch 234 SLA 1976)

CHAPTER 5. RETAIL ADVERTISING

Section

- 10. Statement of purpose
- 20. Advertisement of price reductions from former price
- 30. Price comparisons
- 40. Availability of advertised merchandise
- 50. Advertising reductions on items in a group
- 900. Definitions

9 AAC 05.010. STATEMENT OF PURPOSE. Secs. 20 — 900 of this chapter interpret the terms "unfair methods of competition" and "unfair or deceptive acts or practices" as those phrases apply to the public advertisement and in-store presentation of retail goods and services. Secs. 20 — 900 of this chapter are intended to clarify the law applicable to major areas of deceptive advertising practices, but are not intended in any way to limit the application of the Unfair Trade Practices Act, AS 45.50.471 — 45.50.561, to other deceptive practices, not specifically dealt with in this chapter. (Eff. 4/6/80, Reg. 74)

Authority: AS 45.50.471
AS 45.50.491

9 AAC 05.020. ADVERTISEMENT OF PRICE REDUCTIONS FROM FORMER PRICE. (a) It is an unfair or deceptive act or practice for any seller to advertise merchandise using words such as "sale," "now on sale," "reduced," "special," or other language indicating a reduction in price, if the seller

no value to the refiner or distributor and inventory supplies, equipment and furnishings not reasonably required in the conduct of the business. Compensation shall be made within 60 days from the date of termination unless it is necessary that a lawsuit be filed under § 830 of this chapter or the dealer fails to comply with the bulk sales provisions of AS 45.05.510 et seq. The refiner or distributor may offset against accounts owed by the dealer under this section any amount owed by the dealer to the refiner or distributor. (§ 2 ch 234 SLA 1976)

Sec. 45.50.825. Right of first refusal of surviving spouse. Unless provided otherwise by the lease, upon the death of the lessee the lease shall terminate and the surviving spouse shall have the right of first refusal of the new lease if the surviving spouse has been an active participant in the business and is qualified. (§ 2 ch 234 SLA 1976)

Sec. 45.50.830. Court to determine fair market value when parties cannot agree. If under § 820 of this chapter the distributor or refiner has good cause and the distributor or refiner and the dealer cannot agree on the fair market value of the business, then either party may initiate an action in the superior court where the retail outlet exists. Reasonable attorney fees and the appraiser fees shall be awarded to the dealer if the amount awarded to the dealer by the jury or the court is 10 per cent higher than the final offer, if any, made by the refiner or distributor before the filing of the lawsuit. If the amount awarded to the dealer by the jury or the court is 10 per cent lower than the final offer, if any, made by the refiner or distributor before the filing of the lawsuit, reasonable attorney fees and the appraiser fees shall be awarded to the refiner or distributor. (§ 2 ch 234 SLA 1976)

Sec. 45.50.840. Definitions. In §§ 800 — 830 of this chapter, unless the context otherwise requires,

(1) "refiner" is a company, corporation or individual who owns or controls, or controls through a substantially owned subsidiary, partnership, or joint venture, a refinery used for the production of gasoline, diesel or other motor vehicle fuels;

(2) "distributor" means any person or corporation other than a refiner engaged in the sale, assignment, or distribution of gasoline to four or more dealer-operated retail outlets;

(3) "gasoline" means all products commonly or commercially known or sold as gasoline;

(4) "dealer" means a person primarily engaged in the sale of gasoline to the motoring public through a retail outlet leased from the refiner or distributor or its agent by the person and operated by the person;

(5) "lease" means an oral or written contract or agreement or series of agreements, either express or implied, in which the dealer is required directly or indirectly to purchase 50 per cent or more of his supply of gasoline from a distributor or refiner and in which the dealer is granted

(9) "cemetery lot" means a lot, plot, space, grave, niche, mausoleum, crypt, vault or columbarium, used or intended to be used for the interment of human remains.

(§ 2 ch 246 SLA 1970; am § 10 ch 53 SLA 1974; am § 2 ch 138 SLA 1974; am 13 ch 107 SLA 1994)

Sec. 45.02.350. Sale by door-to-door solicitation. (a) A contract for the purchase of goods or services in the amount of \$10 or more from a person soliciting a door-to-door sale shall require, as a condition of taking effect, that the purchaser may revoke his offer to buy within five business days of entering into the contract, and that the seller, at the time of the sale, give the purchaser written notice of his right to revoke. Revocation is effective either upon the tender of the rejected goods to the seller or his agent, or upon the posting of a registered letter (marked "Deliver to Addressee Only, Return Receipt") of rejection to the seller or his agent.

(b) The cost of returning rejected goods shall be borne by the seller.

(c) A "door-to-door sale" occurs when the seller, or his representative, personally solicits the sale and the purchaser's agreement or offer to purchase is made at a place other than the place of business of the seller. The term "door-to-door sale" does not include a transaction

(1) made under prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis;

(2) in which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer;

(3) conducted and consummated entirely by mail;

(4) in which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property; or

(5) conducted at the purchaser's place of business.

(d) As used in (c) of this section, "personally" means in person or by telephone. (§ 1 ch 54 SLA 1970; am §§ 2, 3 ch 183 SLA 1975)

Article 3. Merchandise.

Sec. 45.45.105. Unsolicited merchandise. (a) No person may offer merchandise for sale, in any manner, when the offer includes the voluntary and unsolicited sending of merchandise not actually ordered or requested by the recipient, either orally or in writing.

(b) Unsolicited merchandise received shall be considered an unconditional gift to the recipient who may use or dispose of it in any manner he sees fit without obligation to the sender. (§ 1 ch 39 SLA 1969)

Sec. 45.45.110. Definitions. In AS 45.45.100 and 45.45.105

(1) "merchandise" means personal property capable of manual delivery which is produced, displayed, held or offered for sale by a manufacturer, distributor or merchant.

(2) "merchant" means an owner or operator of a place of business used for displaying, holding or selling personal property capable of manual delivery, and the agent, consignee, employee, lessee, or officer of such an owner or operator.

(3) "premises" means an establishment or part of one in which merchandise is displayed, held or offered for sale. (§ 1 ch 4 SLA 1957; am § 2 ch 39 SLA 1969)

Effect of amendment. — The 1969 amendment substituted "\$§ 100 and 105" for "\$ 100" near the beginning of the section, inserted "produced" and "manufacturer, distributor or" in paragraph (1), and in paragraph (2) inserted the language between "operator" and "and

the agent," inserted "such" preceding "an owner," and deleted "of any merchant's premises" formerly appearing at the end of the paragraph.

Legislative committee report. — For report on ch. 39, SLA 1969 (CSHB 14 am S), see 1969 House Journal, p. 164.

Article 4. Funerals.

Section

120. Disclosure of costs

Effective date of article. — Section 5, ch. 197, SLA 1976, provides: "This Act takes effect January 1, 1977."

Sec. 45.45.120. Disclosure of costs. Every person performing or arranging for services or providing merchandise relating to the disposition of a dead human body shall give to the person arranging for the disposition at the time the arrangements are completed and before the time of rendering the service or providing the merchandise a written statement showing, to the extent then reasonably ascertainable,

(1) the price and what is included with specific prices for at least each of the following:

- (A) transfer of remains to funeral home;
- (B) embalming;
- (C) use of facilities for viewing;
- (D) use of facilities for funeral service;
- (E) caskets (with a notation that a separate casket price list will be provided before any sales presentation for caskets is made);
- (F) hearse;
- (G) limousine;

(c) Except as provided in (d) of this section, no refiner or distributor may terminate, cancel or fail to renew a dealer lease without good cause. Good cause shall include without limitation:

(1) the failure of a dealer to comply with the lawful material provisions of a lease between the distributor or refiner and the dealer and to cure each default after being given written notice and a reasonable opportunity to cure the default;

(2) an adjudication that the dealer is a bankrupt or insolvent or if he makes an assignment for the benefit of creditors or a similar disposition of assets of franchise business or voluntarily abandons the business or is convicted of or pleads guilty or no contest to a charge of violating any law relating to any business;

(3) the good faith business decision of the lessor that he no longer requires a retail outlet at that location for the marketing of gasoline; and

(4) the dealer's failure to sign the new agreement if at the time of renewal of the lease the distributor or refiner and the dealer cannot agree upon new terms and the terms offered by the refiner or distributor do not violate any other laws of the State of Alaska or of the United States and the terms are essentially the same as those offered to other dealers in similar retail outlets and do not discriminate against the subject dealer.

(d) A refiner or distributor shall be permitted to provide in the lease for its termination without cause during a reasonable trial period, not to exceed one year, if the dealer involved has not already been a dealer of a refiner or distributor for that period of time.

(e) No refiner or distributor may engage in price discrimination between dealers if the effect of the discrimination may be substantially to lessen competition unless that discrimination is based upon quantity purchased or transportation costs or capital investment of the dealer. Nothing in this section prevents a refiner or distributor from offering a lower price or furnishing a service or facility to a dealer when the offer is made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by that competitor. (§ 2 ch 234 SLA 1976)

Sec. 45.50.820. Obligation of distributor to repurchase upon termination, etc., of agreement. If the refiner or distributor terminates, cancels or fails to renew under § 810(c)(1), (2), or (3) of this chapter or for any good cause other than under § 810(c)(4) of this chapter, he shall compensate the dealer for the fair market value of the business, excluding goodwill. Refiners or distributors terminating, cancelling, or failing to renew under § 810(c)(4) of this chapter shall compensate the dealer for the fair market value of the business, including goodwill. Valuation other than goodwill shall include the fair market value of the dealer's inventory supplies, equipment and furnishings purchased from the refiner or distributor exclusive of personalized materials which have

(1) require the dealer at the time of entering into the lease agreement to relieve any person from liability imposed by §§ 800 — 850 of this chapter;

(2) require the dealer to agree to waive his right to a jury trial or any right of counterclaim he may have;

(3) restrict or inhibit directly or indirectly the right of free association for any lawful purpose of the dealer;

(4) except as to the initial inventory, require a dealer to purchase or otherwise lease goods or services of a refiner or distributor or from an approved source of supply unless and to the extent that the refiner or distributor satisfies the burden of proving that such restricted purchasing agreements are reasonably necessary for lawful purposes justified on business grounds and do not substantially affect competition; in determining whether a requirement to purchase is lawful, the court shall be guided by the decisions of the courts of the United States in interpreting and applying the antitrust laws and the Federal Trade Commission Act of the United States;

(5) impose unreasonable standards of performance on the dealer;

(6) require a dealer to participate financially in the use of any premium coupon or giveaway or rebate in the operation of the business; however, a distributor may require the dealer to distribute premiums, coupons or giveaways to customers which are provided to the dealer at the expense of the refiner or distributor or when the promotion is self-liquidating; or

(7) fail to deal with the dealer in good faith;

(8) require the dealer to keep his retail outlet open for business more than 12 consecutive hours a day or more than six days a week; however, this paragraph shall not be construed to prevent a retail outlet from being open when required to be open to conform to a state or federal law or regulation;

(9) require a dealer to purchase or rent a product or service for more than a fair and reasonable price.

(b) No refiner or distributor may, directly or indirectly, through any officer, agent or employee, terminate, cancel or fail to renew a dealer lease without first giving written notice setting out all of the reasons for the termination or cancellation or intent not to renew to the dealer at least 45 days in advance of the termination, cancellation or failure to renew except

(1) when the alleged grounds are voluntary abandonment by the dealer of the lessee relationship, then the above notice may be given five days in advance of the termination, cancellation or failure to renew;

(2) when the alleged grounds are the conviction of the dealer in a court of competent jurisdiction of a felony;

(3) when the lease specifically establishes a period of notice of less than 45 days in which either party may terminate the lease.

(H) services of funeral director and staff;

(I) outer interment receptacles (if outer interment receptacles are sold, a notation that a separate outer interment receptacle price list will be provided before any sales presentation for such items is made);

(2) the price of each supplemental item of service or merchandise;

(3) the amount involved for each of the items for which money will be advanced; an item for which money is advanced shall be charged in the same amount as the cost to the person making the advance;

(4) the method of payment;

(5) the fee for counseling, consulting, or arranging for future services relating to the disposition of a dead human body. (§ 2 ch 197 SLA 1976)

Article 5. Regulation of Motor Vehicle Repairs.

Section	Section
130. Repair order	190. Invoice
140. Repair price information	200. Prohibited practices
150. Notice to customer	210. Disclosure of regulation
160. Charges	220. Records
170. Authorization to proceed with repairs	240. Definitions
180. Return of parts	

Effective date of article. — Section 3, ch. 146, SLA 1976, provides: "This Act takes effect on January 1, 1977."

Sec. 45.45.130. Repair order. Upon request of the customer and before the commencement of repairs, the shop shall provide the customer with a copy of a dated repair order legibly describing the repairs to be performed. The shop shall record the odometer reading of the customer's motor vehicle on the repair order, and shall sign the customer's copy. (§ 1 ch 146 SLA 1976)

Sec. 45.45.140. Repair price information. Upon request of the customer and before the commencement of repairs, the shop shall provide the customer with a price estimate for the repairs. The repair price estimate shall be made in good faith by the shop and may not be exceeded except for good cause and no additional charges may be incurred over the price estimate without approval of the customer. Nothing in this section may be construed as requiring a shop to provide a price estimate if the shop does not agree to perform the requested repairs. (§ 1 ch 146 SLA 1976)

Article 5. Alaska Gasoline Products Leasing Act.

Sec. 45.45.150. Notice to customer. The shop shall post a conspicuously located and easily readable sign which states:

"You are entitled to a price estimate for the repairs you authorize if you request the estimate before the repairs are begun. This price estimate will not be exceeded if the motor vehicle is delivered to the shop within five days. After the motor vehicle is delivered to the shop the repair price may be less than the estimate but will not exceed the estimate without your permission. Your signature on the repair order will indicate your authorization of repairs at the price estimated.

You are entitled to the return of any or all replaced parts, except parts which must be returned to a manufacturer because of warranty and/or exchange agreement, if you request the parts at the time your order is taken. Those parts which must be returned to the manufacturer will be made available for inspection to you when you pick up your vehicle if you request the parts at the time your repair order is taken." (S 1 ch 146 SLA 1976)

Sec. 45.45.160. Charges. No shop may charge for making a repair price estimate unless, before making the estimate, the shop discloses to the customer the amount of the charge, or, if the amount cannot be determined, the basis on which the charge will be calculated. No shop may impose, or threaten to impose, a charge which is clearly excessive in relation to the work involved in making the price estimate. (S 1 ch 146 SLA 1976)

Sec. 45.45.170. Authorization to proceed with repairs. (a) If the shop has given the customer an estimate and the price for the authorized repairs will exceed the estimate, the shop shall call the customer before continuing with the repairs and shall provide the customer with a new, good faith estimate of the repair price. The shop may not then continue with the repairs until it receives the customer's written or oral authorization to do so.

(b) Before undertaking repairs other than those previously authorized by the customer, the shop shall call the customer and provide him with a description of the proposed additional repairs, together with a good faith estimate of the price for the repairs. The shop may not then undertake the additional repairs until it receives the customer's written or oral authorization to do so.

(c) If the shop does not receive the customer's authorization to proceed with the repairs under (a) or (b) of this section, the shop shall either agree to perform the repairs at the original estimated price or provide for the customer to retake possession of the vehicle in at least as good condition as it was delivered to the shop and notify the customer accordingly.

Section	Section
800. Disclosures to be made by distributors and refiners before conclusion of agreement	825. Right of first refusal of surviving spouse
810. Violations	830. Court to determine fair market value when parties cannot agree
820. Obligation of distributor to repurchase upon termination, etc., of agreement	840. Definitions
	850. Short title

Cross reference. — For provision that failure to comply with the terms of this article constitutes an unfair method of competition, see AS 45.50.471(b)(25).

Effective date of article. — Section 4, ch. 234, SLA 1976, provides: "This Act takes effect July 1, 1976."

Editor's note. — Section 1, ch. 234, SLA 1976, effective July 1, 1976, provides:

" Findings of the legislature. The legislature finds and declares that since the distribution and sales, through lease agreements, of gasoline in the state vitally affect the economy of the state, the public interest, welfare, and transportation, it is necessary to define the relationships and responsibilities of the parties to certain agreements pertaining to leasing."

Sec. 45.50.800. Disclosures to be made by distributors and refiners before conclusion of agreement. Before entry into a lease agreement, a refiner or distributor shall disclose to the dealer facts which would reasonably be considered material to the dealer's decision to enter into the lease. These facts shall include, but not be limited to,

(1) ownership of property of the retail outlet;

(2) if the real property is not owned by a refiner or distributor, then the nature of the relationship between the real property owner and the refiner or distributor and the length of the underlying lease (if applicable);

(3) the last known addresses of dealers operating the retail outlet for the last five years;

(4) the gasoline gallonage history, if any, of the station for the last five years;

(5) any sales goals or quotas the refiners or distributors intend to apply to the station;

(6) the nearest gasoline outlet owned, controlled or operated by the refiner or distributor and any plans the distributor or refiner has to open new retail outlets within the trade area of the retail outlet; and

(7) any plans the refiner or distributor has for the future of the subject retail outlet. (S 2 ch 234 SLA 1976)

Sec. 45.50.810. Violations. (a) No person shall, directly or indirectly, through officers, employees or agents,

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the period during which the vehicle is available for use by the owner, calculated by a straight line depreciation method over seven years, plus an amount equal to the depreciation in value of the vehicle that is caused by

- (A) any neglect or abuse by the owner;
- (B) body damage not caused by a fire or theft;

(10) "repairing agent" means a person who has been specifically authorized by a motor vehicle manufacturer or distributor to perform warranty repairs in the state on one or more of the manufacturer's or distributor's motor vehicles;

(11) "substantially impairs the market value" means a nonconformity that substantially decreases the dollar value of a vehicle to the owner when compared to the dollar value of a similar vehicle that does not have the nonconformity;

(12) "substantially impairs the use" means a nonconformity that prevents a motor vehicle from being operated or makes the vehicle unsafe to operate.

(d) A written authorization under (a) or (b) of this section shall be made on the repair order or on the invoice when a repair order is not requested and shall specify newly authorized repairs, as well as the newly authorized repair price estimate. If authorization under (a) or (b) of this section is received orally, the shop shall specify on the repair order or invoice newly authorized repairs, as well as the newly authorized repair price estimate. It shall also specify the date and time of authorization, and the person and telephone number called. (§ 1 ch 146 SLA 1976)

Sec. 45.45.180. Return of parts. Parts from a customer's motor vehicle which are replaced by the shop shall be returned to the customer if they are requested by the customer at the time the repair order is taken. However, parts which must be returned to the manufacturer because of a warranty or exchange agreement need not be returned to the customer upon request but shall instead be made available for the customer's inspection when the customer retakes possession of his motor vehicle. (§ 1 ch 146 SLA 1976)

Sec. 45.45.190. Invoice. The shop shall provide every customer, at the time the customer retakes possession of his motor vehicle, with a copy of a dated invoice detailing the costs of all parts and labor involved in the repair, and identifying all parts replacements as being either new, used, rebuilt or reconditioned. (§ 1 ch 146 SLA 1976)

Sec. 45.45.200. Prohibited practices. (a) No shop may misrepresent, directly or by implication,

- (1) the cost of repairs authorized by the customer;
- (2) the terms or conditions of a warranty or service agreement;
- (3) that repairs are necessary;
- (4) that repairs have been made; or
- (5) that the motor vehicle is in a dangerous condition, or that the customer's continued use of the motor vehicle will be hazardous to persons or harmful to the motor vehicle.

(b) No shop may collect or attempt to collect for

- (1) repairs not authorized either orally or in writing by the customer;
- (2) repairs which the shop knew or reasonably ought to have known to be unnecessary; or
- (3) repairs which have not been made.

(c) No shop which is also a warrantor or a party to a service agreement may refuse to repair a motor vehicle in accordance with the terms and conditions of the warranty or service agreement.

(d) No shop may fail to return a customer's motor vehicle because the customer has refused to pay for unauthorized repairs, or because the customer has refused to pay repair charges in excess of the price authorized under §§ 130 — 140 of this chapter, if the customer pays the authorized price for the authorized repairs.

(e) No shop may alter a customer's motor vehicle with intent to create a condition requiring repairs. (§ 1 ch 146 SLA 1976)

Sec. 45.45.210. Disclosure of regulation. The following statement shall be conspicuously printed, either on the invoice or on another form given to every customer for whom the shop performs repairs:

"Motor vehicle repair trade practices are regulated by Alaska statutes 45.45.130 — 45.45.240 administered by the consumer protection section, Alaska department of law." (§ 1 ch 146 SLA 1976)

Sec. 45.45.220. Records. A shop shall maintain repair records and invoices for parts purchased by the shop. The records shall be available for reasonable inspection by the attorney general or other persons acting at his request and shall be retained for at least two years. (§ 1 ch 146 SLA 1976)

Sec. 45.45.240. Definitions. In §§ 130 — 240 of this chapter

(1) "customer" includes a person authorized by the customer to act on the customer's behalf;

(2) "motor vehicle" or "vehicle" means a motor vehicle as defined in AS 28.35.260 which is required to be registered under AS 28.10, or with a governmental agency of another jurisdiction performing a similar function;

(3) "motor vehicle repair shop" or "shop" means an individual, corporation, partnership, or other form of business organization engaged in the motor vehicle repair business and includes owners, officers, directors, agents, employees, and representatives but excludes the following:

(A) a shop engaged solely in the business of repairing the motor vehicles of a single commercial, industrial or governmental establishment, or of two or more of these establishments which are related by common ownership or corporation affiliation;

(B) a person repairing his own or a family member's motor vehicle;

(4) "repair" or "repairs" means the improvement, adjustment, replacement, examination, diagnosis, maintenance, servicing, removal or installation of any component or part of a motor vehicle, but does not include towing or the supply of motor fuel to a motor vehicle. (§ 1 ch 146 SLA 1976; am § 21 ch 144 SLA 1977)

Effect of amendment. — The 1977 amendment, in paragraph (2), substituted "AS 28.10" for "with the Department of Public Safety under AS 28.10.040," and "AS 28.35.260" for "AS 28.10.650," "under" for "jurisdiction" for "state."

Chapter 101

the retail sale and warranty repair of the manufacturer's new motor vehicles in the state;

(2) "distributor" means a person who is authorized by a manufacturer to engage in the wholesale distribution of the manufacturer's new motor vehicles in the state;

(3) "express warranty" or "warranty" means an express written warranty provided by the manufacturer of a new motor vehicle;

(4) "full purchase price" means the total price paid for a motor vehicle by the original owner, including costs added to the retail price, such as original registration fees, transportation fees, dealer preparation, and dealer installed options;

(5) "manufacturer" means a person who by labor transforms raw materials and component parts into motor vehicles for wholesale or retail sale;

(6) "motor vehicle" or "vehicle" means a land vehicle having four or more wheels, that is self-propelled by a motor, is normally used for personal, family, or household purposes, and is required to be registered under AS 28.10; but does not include a tractor, farm vehicle, or a vehicle designed primarily for off-road use;

(7) "nonconformity" means defect or condition in a motor vehicle caused by a manufacturer, distributor, dealer or repairing agent that substantially impairs the use or market value of a vehicle;

(8) "owner" means a purchaser, other than for resale, of a new motor vehicle, and a person to whom ownership of the motor vehicle is transferred in conformity with AS 28;

(9) "reasonable allowance" means an amount attributable to an owner's use of a motor vehicle; a "reasonable allowance" may not exceed an amount equal to the depreciation in value of the vehicle for

other provisions of law. This subsection does not create a new cause of action against a dealer or repairing agent who sells or attempts to repair a motor vehicle found to be nonconforming under this section.

(j) A manufacturer or distributor of motor vehicles who authorizes the sale of the manufacturer's or distributor's motor vehicles in the state shall maintain authorized dealership facilities within the state that are able to perform the service and make the repairs required by the manufacturer's express warranty and by this section.

(k) A manufacturer or distributor who accepts the return of a nonconforming motor vehicle under (b) of this section shall reimburse the owner for any reasonable cost incurred in shipping the vehicle to and from the nearest authorized facility for warranty service and repair of a nonconformity that causes the return of the vehicle.

(l) If a manufacturer or distributor has established an informal dispute settlement procedure that substantially complies with the requirements of 16 C.F.R. 703, as that section may be amended, or if the manufacturer or distributor, after receipt of notice required by (c) of this section, offers in writing to participate in an arbitration or mediation process with the owner and the arbitration or mediation decision is binding on the manufacturer or distributor but not on the owner, and if the informal dispute settlement or arbitration or mediation process is approved by the attorney general, the provisions of (b) of this section concerning refund or replacement or (k) of this section concerning shipping costs do not apply to an owner who has not first resorted to the informal dispute settlement procedure or arbitration or mediation process.

(m) In this section,

(1) "dealer" means a person who has obtained a franchise from, or is authorized by, a motor vehicle manufacturer to engage in

AN ACT

Relating to motor vehicle warranties.

* Section 1. AS 45.45 is amended by adding a new section to read:

ARTICLE 6. MOTOR VEHICLE WARRANTIES.

Sec. 45.45.300. MOTOR VEHICLE WARRANTIES. (a) If a new motor vehicle does not conform to an express warranty that is applicable to it and the owner of the vehicle reports the defect or condition to the manufacturer of the vehicle or to the manufacturer's or distributor's dealer during the term of the warranty, the manufacturer, distributor, dealer, or a repairing agent shall make the necessary repairs to conform the vehicle to the express warranty.

(b) If during the term of the express warranty or within one year from the date of delivery of the motor vehicle to the original owner, whichever period terminates first, the manufacturer, distributor, dealer, or repairing agent is unable to conform the motor vehicle to an applicable express warranty after a reasonable number of attempts, the manufacturer or distributor shall accept the return of the nonconforming motor vehicle, and, at the owner's option, shall replace the nonconforming vehicle with a new, comparable vehicle or shall refund the full purchase price to the owner less a reasonable allowance for the use of the motor vehicle from the time it was delivered to the original owner. A refund under this subsection shall be made to a lienholder of record, if any, and the owner, as their interests may appear.

(c) In order to claim a refund or replacement under (b) of this section, the owner shall give written notice by certified mail to the manufacturer and its dealer or repairing agent at any time before 60 days have elapsed after the expiration of the express warranty or the one-year period after the date of delivery of the motor vehicle to the original owner, whichever period terminates first (1) stating that the vehicle has a nonconformity; (2) providing a reasonable description of the nonconformity; (3) stating that the manufacturer, distributor, dealer, or repairing agent has made a reasonable number of attempts to conform the vehicle; and (4) stating that the owner demands a refund or replacement vehicle to be delivered on the 60th day after the mailing of the written notice. Within 30 days after receiving the notice required by this subsection the manufacturer may make a final attempt to conform the vehicle before a refund or replacement is made under (b) of this section.

(d) An owner may not receive a refund or replacement under this section if the manufacturer or distributor shows that the nonconformity complained of

(1) does not substantially impair either the use or the market value of the motor vehicle; or

(2) is the result of

(A) alteration of the motor vehicle by the owner or a person other than a dealer or repairing agent that is not authorized by the manufacturer or distributor; or

(B) abuse or neglect by the owner or a person other than the dealer or repairing agent.

(e) A presumption that a reasonable number of attempts have been made to conform a motor vehicle under an applicable express warranty is established if:

(1) the same nonconformity has been subject to repair three or more times by the manufacturer, distributor, dealer, or repairing agent during the term of the express warranty or the one-year period after delivery of the motor vehicle to the original owner, whichever period terminates first, but the nonconformity continues to exist; or

(2) the vehicle is out of service for repair for a total of 30 or more business days during the express warranty term or the one-year period referred to in (1) of this subsection, whichever period terminates first; any period of time that repairs are not performed for reasons that are beyond the control of the manufacturer, distributor, dealer, or repairing agent is excluded from the 30-day time period referred to in this paragraph.

(f) A manufacturer whose vehicles are sold in the state through an authorized dealer shall provide its dealer or repairing agent with any part necessary to make a repair of a nonconformity covered under an express warranty, as soon as possible, without additional charge for freight or handling, if the part is not in the dealer's or agent's inventory when the nonconforming vehicle is brought to the dealer or repairing agent for repair.

(g) A manufacturer or distributor who fails to refund the full purchase price of a motor vehicle or replace the motor vehicle when there is a requirement to do so under this section is presumed to have committed an unfair trade practice under AS 45.50.471.

(h) A motor vehicle returned under (b) of this section may not be resold by the manufacturer or distributor in the state unless full disclosure of the reason for the return is made to the prospective buyer before the resale is concluded.

(i) The provisions of this section do not limit other rights and remedies that may be available to the owner of a motor vehicle under

CONSUMER INFO

CONSUMER PROTECTION SECTION

The Consumer Protection Section of the Attorney General's office enforces Alaska's Unfair Trade Practices and Consumer Protection laws, which laws benefit both individual consumers and business people. One of the functions of this office is to handle consumer complaints.

WHY WE NEED YOUR COMPLAINT IN WRITING

Consumer Protection is here to serve you. We can do a better job and process your complaint faster if you help us. We need to have your complaint in writing because written complaints help you give us all the details we need and help us work faster than with initial interviews. (We can handle several complaints in the time it takes to do an interview, and somebody still has to write out all the details.) If we need more details after reading your complaint, we will contact you.

If you aren't sure whether you have a complaint, go ahead and fill out one of our complaint forms anyway. If you don't have a complaint, we will contact you promptly. Usually you do have a complaint or you wouldn't be here.

WHAT WE DO WITH YOUR COMPLAINT

A staff member initially reviews all complaints to determine whether there is evidence of a clear, serious violation of law. If so, the complaint will go to a staff attorney. Otherwise, we will handle the complaint in our informal complaint resolution procedure.

We send the business a letter and a copy of your complaint, asking them to tell their side of the story. When we get their reply, we will contact you for your comments or to tell you about any proposed settlement offer from the business. Much of the time, this process yields satisfactory results.

If there is no voluntary offer of settlement or the proposed settlement is not acceptable to you, you must then proceed privately through the Small Claims Court or a private attorney. The state can only take formal action when there is a serious indication of deceptive practices in violation of law. The fact that we do not take formal action does not necessarily reflect on the merit of either party's position in this matter.

All complaint files are kept for future reference in case other complaints against the business are received. This way we can keep track of deceptive or fraudulent patterns which may begin to evolve. However, unless we file formal legal action in court, all complaints are confidential; we do not perform the function of a Better Business Bureau by releasing complaint information about particular businesses.

YOU SHOULD REALIZE THAT:

- 1** THE CONSUMER PROTECTION OFFICE CANNOT ACT AS YOUR ATTORNEY. WHEN THE ATTORNEY GENERAL SUES A BUSINESS, HE SUES FOR THE STATE--TO STOP THE PRACTICE AND COLLECT FINES.
- 2** THE COMPLAINT HANDLING PROCESS USUALLY TAKES AT LEAST SIXTY (60) DAYS.
- 3** IT IS NOT POSSIBLE FOR THE STATE TO SUE EVERY TIME A CONSUMER IS TREATED UNFAIRLY OR EVEN DEFRAUDED. THE STATE CAN ONLY ACT IN THE GENERAL PUBLIC INTEREST.
- 4** EVEN THOUGH YOU FILE A CONSUMER COMPLAINT WITH OUR OFFICE YOU MAY ALSO WANT TO CONSULT A PRIVATE ATTORNEY, OR THE LEGAL SERVICES ATTORNEY, OR FILE A CLAIM IN SMALL CLAIMS COURT AT THE SAME TIME.

BUSINESS RESPONSE INFORMATION

Consumer Protection Section

The Consumer Protection Section of the Attorney General's Office enforces Alaska's Unfair Trade Practices and Consumer Protection laws, which laws benefit both individual consumers and business people. One of the functions of this office is to handle consumer complaints.

Consumer Complaints

Any consumer who believes that he/she has been subjected to an unfair or deceptive trade practice may file a complaint with this state office. A staff member initially reviews all complaints to determine whether there is evidence of a clear, serious violation of law. If so, the complaint will go to a staff attorney. Otherwise, we will handle the complaint in our informal complaint resolution procedure.

We do not attempt to prejudge the merits of complaints by either refusing to handle some complaints or by assuming that one or the other side is "right." It would be impossible, as well as unfair, to make any assumptions on so little information. We do screen complaints to verify that we have jurisdiction to handle the subject matter of the complaint.

The Complaint Resolution Process

Our complaint handling process is informal and relies upon cooperation from all parties. Whenever a consumer files a complaint against you, we will send the complaint to you as a respondent. By doing so, we are requesting your cooperation in clarifying the situation and resolving the problem. We cannot force you as a respondent to offer a settlement, nor can we force a settlement on either party.

We recognize that there are two sides to every story, and we listen to both sides. We know that sometimes consumer complaints are inaccurate or unreasonable. The fact that both sides may be angry does not make either one of them "right."

By our mediation efforts, we hope to give both sides to a consumer complaint a chance to better understand each other and, once understood, resolve their problem. Much of the time, this process yields satisfactory results for both sides.

How to Respond to a Complaint

We request that you respond, in writing, to the complaint. Written responses help you give us all the details we need, avoid misunderstandings, and help us work faster. (We can handle several matters in the time it takes to do an interview, and somebody still has to write all the details.)

To enable both this office and the consumer to better understand your position, we ask that you investigate the complaint; for instance, talk to the employees involved and check your business records. We request that you respond with a discussion of the facts of this complaint and any figures that might be necessary to better understand the situation. Often, it is important to include a statement of your standard business procedure so that there is a context in which to view this particular complaint. Finally, please include a statement of your position on this consumer complaint, as well as any suggestions or plans you may have for resolving this matter.

What Happens When Mediation Fails

If mediation fails (or if you fail to respond), we will review the information we obtained to determine whether or not there is a pattern or serious indication of deceptive practices which justifies formal action by the state. Formal actions include conducting a formal investigation or, in the face of serious violations of the law, filing a lawsuit seeking an injunction to stop the disputed practice and to seek restitution for consumers and civil penalties.

If we determine that formal state action is not appropriate, we will usually advise consumers that they have the right to proceed privately through small claims court or a private attorney if they so choose. The fact that the state does not take formal action does not necessarily reflect on the merit of either party's position in this matter.

All complaint files are kept for future reference in case other complaints against the business are received. This way we can keep track of deceptive or fraudulent patterns which may begin to evolve. However, unless we file formal legal action in court, all complaints are confidential. We do not perform the function of a Better Business Bureau by releasing complaint information about particular businesses.

ANCHORAGE

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JUNEAU

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Pouch K
Juneau, AK 99811
(907) 465-3692

FAIRBANKS

1st National Center
100 Cushman, Suite 400
Fairbanks, AK 99701
(907) 456-8588

VALDEZ

P.O. Box 671
Valdez, AK 99686
(907) 835-2462

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Juneau, AK 99811
465-3692

VALDEZ

P. O. Box 671
Valdez, AK
99686
835-2462

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME Last First M.I.			2. TODAY'S DATE		
3. MAILING ADDRESS			CITY	STATE	ZIP CODE
4. HOME ADDRESS (if different)			CITY	STATE	ZIP CODE
5. HOME TELEPHONE NO.			6. BUSINESS TELEPHONE NO.		
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT.			NAME OF SALESPERSON:		
8. COMPANY'S ADDRESS.			CITY	STATE	ZIP CODE
9. COMPANY'S TELEPHONE NO.			10. DATE OF TRANSACTION		
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input type="checkbox"/> YES <input type="checkbox"/> NO					
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT?					
13. WAS A WRITTEN CONTRACT SIGNED? <input type="checkbox"/> YES <input type="checkbox"/> NO					
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input type="checkbox"/> YES <input type="checkbox"/> NO			15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED.		
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input type="checkbox"/> NO			17. IF YES, NAME OF ATTORNEY.		
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input type="checkbox"/> NO			19. IF YES, NAME COURT OR AGENCY.		

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES	<input type="checkbox"/> NO			
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE?	<input type="checkbox"/> YES	<input type="checkbox"/> NO			
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
			DID YOU RECEIVE IT?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year Make Model V.I.N.

I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Signature

On the reverse side of this form
Summarize your complaint. Be brief,
But complete.

INTRODUCTION OF BILLS (House)(cont'd)

HE 146 (cont'd)

disability. Applicants would be required to establish proof of permanent disability and the need for specialized housing. Does not provide for an effective date (takes effect 90 days after Governor signs bill).

Introduced January 30 and referred to the House Special Committee on State Loans, Health, Education & Social Services, then Finance.

Division of
EEO
(creation)

HOUSE BILL NO. 147, by the Rules Committee by Request of the Governor. Creates a Division of Equal Employment Opportunity within the Department of Administration (see Governor's message). No effective date (takes effect 90 days after Governor signs bill).

Introduced January 30 and referred to State Affairs and Finance.

In his letter transmitting the bill to the House, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill creating a division of equal employment opportunity in the Department of Administration. This bill will provide the division with statutory responsibility for equal employment opportunity that will transcend administrations and provide continuity in equal employment opportunity within the executive branch of state government.

The bill establishes the division of equal employment opportunity by adding AS 44.21.450 -- 44.21.485 to AS 44.21, relating to the Department of Administration. The division's powers and duties, which include advising and consulting with other departments and divisions about equal employment opportunity, affirmative action, and recruitment matters, are set out in AS 44.21.460. Most significantly, the division is under a mandate to develop an affirmative action plan for the executive branch of state government, to be submitted to the governor on an annual basis. The plan becomes effective once signed by the governor, and the head of each executive agency or department must report to the division about activities undertaken to implement the plan. The division reports annually to the governor and legislature on the plan's content and implementation. AS 44.21.470.

The bill requires the division to conduct an impartial investigation of every complaint of employment discrimination in the executive branch of state government. The division will work with the complainant and the agency involved to informally resolve the complaint. AS 44.21.475. Another feature of the bill is that it gives the division access to all records necessary to carry out its functions, although information that is confidential under AS 39.25.080 or other statutes may not be made public. AS 44.21.480.

Mobile Home
Warranties
(enforcement/
self-help)

HOUSE BILL NO. 148, by the Rules Committee by Request of the Governor. Increases governmental efficiency in enforcement of mobile home warranties and encourages consumer self-help (see Governor's letter). No effective date (takes effect 90 days after Governor signs bill).

Introduced January 30 and referred to Labor & Commerce and Judiciary.

page 192

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to mobile home warranties. This bill increases government efficiency in enforcement of mobile home warranties, and encourages private consumer self-help.

INTRODUCTION OF BILLS (House)(cont'd)

HB 148, (con 'd)

The bill has two main components: (1) the creation of a private cause of action in a mobile home buyer against the manufacturer's bond, which AS 45.30.015 requires be posted with the state; and (2) a transfer of warranty enforcement authority from the Department of Commerce and Economic Development (DCED) to the Department of Law.

With regard to the first of the components, it is the understanding of both DCED and the Department of Law that, when the mobile home warranty statute, AS 45.30.011, took effect in 1980, a private buyer injured by a manufacturer who sold a defective home to a buyer in this state would be allowed to make a claim against the bond under AS 45.30.040. However, that statute only provided a procedure for the consumer to petition the state to take administrative action against the bond. Experience in the last few years has shown that a buyer may believe that he or she has a valid claim against the bond in a case in which the state enforcing authority does not agree that administrative action is warranted. Providing a clear, private cause of action against the bond may relieve a burden on the government by reducing the number of administrative hearings, and insure that an individual can choose to enforce his or her own rights, whether or not a state agency agrees with the individual.

The second component of the bill is a transfer of the warranty enforcement powers from DCED to the Department of Law. The April 1983 legislative audit of the division of measurement standards, DCED, studied this issue and recommended

The Department of Commerce and Economic Development) should seek legislation to transfer the mobile home warranty enforcement program to the Consumer Protection Section of the Department of Law.

Both departments have agreed that this is a more efficient enforcement pattern, as the Department of Law, consumer protection section, already processes mobile home complaints that fall outside the warranty Act, as well as those that may duplicate warranty Act enforcement by DCED.

In FY 84, DCED transferred the one mobile home investigator position to the Department of Law through a reimbursable services agreement.

The bill promotes government efficiency by encouraging private self-help, rather than reliance on government. I feel that it will have the support of both industry and consumers. I urge your affirmative action on this measure.

Locks & Keys
(misuse of)

HOUSE BILL NO. 149, by the Rules Committee by Request of the Governor. Adds new sections to criminal code relating to the unlawful use of locking devices. (see accompanying letter). No effective date (takes effect 90 days after Governor signs bill).

Introduced January 30 and referred to Judiciary.

In his letter transmitting the bill to the House, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to locksmiths.

This bill provides two degrees of criminal penalties for unlawful use of locking devices. The first degree crime is aimed primarily at locksmiths, but it also covers anyone who sells, repairs, or installs a locking device, including someone who sells a vehicle or a building but keeps a key. Class C felony penalties are imposed upon someone in this category who uses or discloses information, or provides a device, including a key, knowing that it will permit unauthorized access to the locked place. The bill thus recognizes that people who provide locks have a fiduciary relationship with those who rely upon them for security, and that someone who helps an unauthorized person gain access to a home or business is as culpable as the burglar himself.

The crime of unlawful use of locking devices in the second degree is aimed at prohibiting the practice of unauthorized duplication of keys marked with the words "do not duplicate." Class A misdemeanor penalties are provided.

**Office of the Attorney General
Consumer Protection Section**

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835-2462

OTHER AREAS IN ALASKA

Phone: 277-1961
Collect

ALASKA'S LEMON LAW



**Consumer Protection Section
Department of Law**

NORMAN C. GORSUCH
Attorney General

BILL SHEFFIELD
GOVERNOR

(3) "express warranty" or "warranty" means an express written warranty provided by the manufacturer of a new motor vehicle;

(4) "full purchase price" means the total price paid for a motor vehicle by the original owner, including costs added to the retail price, such as original registration fees, transportation fees, dealer preparation, and dealer installed options;

(5) "manufacturer" means a person who by labor transforms raw materials and component parts into motor vehicles for wholesale or retail sale;

(6) "motor vehicle" or "vehicle" means a land vehicle having four or more wheels, that is self-propelled by a motor, is normally used for personal, family, or household purposes, and is required to be registered under AS 28.10; but does not include a tractor, farm vehicle, or a vehicle designed primarily for off-road use;

(7) "nonconformity" means a defect or condition in a motor vehicle caused by a manufacturer, distributor, dealer, or repairing agent that substantially impairs the use or market value of a vehicle;

(8) "owner" means a purchaser, other than for resale, of a new motor vehicle, and a person to whom ownership of the motor vehicle is transferred in conformity with AS 28;

(9) "reasonable allowance" means an amount attributable to an owner's use of a motor vehicle; a "reasonable allowance" may not exceed an amount equal to the depreciation in value of the vehicle for the period during which the vehicle is available for use by the owner, calculated by a straight line depreciation method over seven years, plus an amount equal to the depreciation in value of the vehicle that is caused by

(A) any neglect or abuse by the owner; or

(B) body damage not caused by a nonconformity;

(10) "repairing agent" means a person who has been specifically authorized by a motor vehicle manufacturer or distributor to perform warranty repairs in the state on one or more of the manufacturer's or distributor's motor vehicles;

(11) "substantially impairs the market value" means a nonconformity that substantially decreases the dollar value of a vehicle to the owner when compared to the dollar value of a similar vehicle that does not have the nonconformity;

(12) "substantially impairs the use" means a nonconformity that prevents a motor vehicle from being operated or makes the vehicle unsafe to operate.



A MESSAGE FROM THE ATTORNEY GENERAL

The motor vehicle of today is an expensive and complicated device. Most Alaskans have become dependent on the availability of a motor vehicle to conduct their daily affairs. Unfortunately, some new cars prove less than dependable. They turn out to be lemons. When this happens, the consumer is faced with a problem that is not easily resolved.

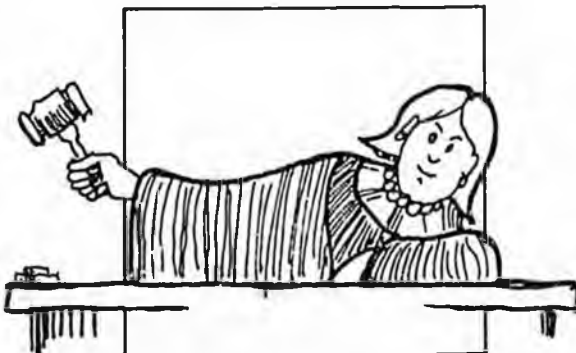
The legislature, recognizing the dilemma faced by many new car buyers, enacted a law which has commonly become known as the "Lemon Law." The law was approved by Governor Bill Sheffield, June 13, 1984. The actual effective date was September 11, 1984. New motor vehicles purchased after that date are clearly covered by this law.

This brochure is designed to inform consumers of the protections offered by this law. If you need additional information, or if you have information regarding violations of this law, please contact my Consumer Protection Section.

Norman C. Gorsuch
Attorney General

WHAT ARE THE BENEFITS OF THE LAW?

- The Lemon Law (AS 45.45.300) provides protection to buyers of new motor vehicles. If a new vehicle turns out to be defective and has not been properly repaired after a reasonable number of attempts, the law requires a refund or replacement vehicle.
- Only a small percentage of new vehicles will be declared lemons. However, all new vehicle buyers will benefit from this law. The manufacturer and the dealer now have a stronger economic incentive to deliver the vehicle free from defects, and if problems develop, correct them speedily and accurately.
- The law encourages the vehicle manufacturers to establish third party arbitration programs. These programs must meet specific standards and must have the approval of the Attorney General. Any decisions ordered by the arbitrations are binding on the manufacturer but not on the consumer.
- This law spells out clearly the owner, dealer and manufacturer's responsibilities. It does not limit other rights and remedies that may be available to the owner of a motor vehicle under other provisions of law.



(h) A motor vehicle returned under (b) of this section may not be resold by the manufacturer or distributor in the state unless full disclosure of the reason for the return is made to the prospective buyer before the resale is concluded.

(i) The provisions of this section do not limit other rights and remedies that may be available to the owner of a motor vehicle under other provisions of law. This subsection does not create a new cause of action against a dealer or repairing agent who sells or attempts to repair a motor vehicle found to be nonconforming under this section.

(j) A manufacturer or distributor of motor vehicles who authorizes the sale of the manufacturer's or distributor's motor vehicles in the state shall maintain authorized dealership facilities within the state that are able to perform the service and make the repairs required by the manufacturer's express warranty and by this section.

(k) A manufacturer or distributor who accepts the return of a nonconforming motor vehicle under (b) of this section shall reimburse the owner for any reasonable cost incurred in shipping the vehicle to and from the nearest authorized facility for warranty service and repair of a nonconformity that causes the return of the vehicle.

(l) If a manufacturer or distributor has established an informal dispute settlement procedure that substantially complies with the requirements of 16 C.F.R. 703, as that section may be amended, or if the manufacturer or distributor, after receipt of notice required by (c) of this section, offers in writing to participate in an arbitration or mediation process with the owner and the arbitration or mediation decision is binding on the manufacturer or distributor but not on the owner, and if the informal dispute settlement or arbitration or mediation process is approved by the attorney general, the provisions of (b) of this section concerning refund or replacement or (k) of this section concerning shipping costs do not apply to an owner who has not first resorted to the informal dispute settlement procedure or arbitration or mediation process.

(m) In this section,

(1) "dealer" means a person who has obtained a franchise from, or is authorized by, a motor vehicle manufacturer to engage in the retail sale and warranty repair of the manufacturer's new motor vehicles in the state;

(2) "distributor" means a person who is authorized by a manufacturer to engage in the wholesale distribution of the manufacturer's new motor vehicles in the state;

or replacement vehicle to be delivered on the 60th day after the mailing of the written notice. Within 30 days after receiving the notice required by this subsection the manufacturer may make a final attempt to conform the vehicle before a refund or replacement is made under (b) of this section.

(d) An owner may not receive a refund or replacement under this section if the manufacturer or distributor shows that the nonconformity complained of

(1) does not substantially impair either the use or the market value of the motor vehicle; or

(2) is the result of

(A) alteration of the motor vehicle by the owner or a person other than a dealer or repairing agent that is not authorized by the manufacturer or distributor; or

(B) abuse or neglect by the owner or a person other than the dealer or repairing agent.

(e) A presumption that a reasonable number of attempts have been made to conform a motor vehicle under an applicable express warranty is established if:

(1) the same nonconformity has been subject to repair three or more times by the manufacturer, distributor, dealer, or repairing agent during the term of the express warranty or the one-year period after delivery of the motor vehicle to the original owner, whichever period terminates first, but the nonconformity continues to exist; or

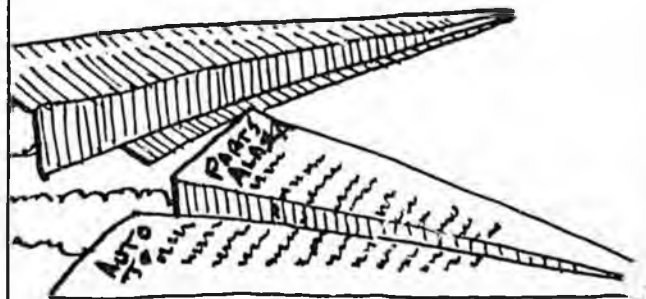
(2) the vehicle is out of service for repair for a total of 30 or more business days during the express warranty term or the one-year period referred to in (1) of this subsection, whichever period terminates first; any period of time that repairs are not performed for reasons that are beyond the control of the manufacturer, distributor, dealer, or repairing agent is excluded from the 30-day time period referred to in this paragraph.

(f) A manufacturer whose vehicles are sold in the state through an authorized dealer shall provide its dealer or repairing agent with any part necessary to make a repair of a nonconformity covered under an express warranty, as soon as possible, without additional charge for freight or handling, if the part is not in the dealer's or agent's inventory when the nonconforming vehicle is brought to the dealer or repairing agent for repair.

(g) A manufacturer or distributor who fails to refund the full purchase price of a motor vehicle or replace the motor vehicle when there is a requirement to do so under this section is presumed to have committed an unfair trade practice under AS 45.50.471.

WHAT ARE THE MANUFACTURER'S RESPONSIBILITIES?

- If an owner of a new motor vehicle reports a defect or problem, the manufacturer normally, through their dealer or repairing agent, makes the necessary repairs.
- If the manufacturer, dealer or repairing agent has been unable to repair the defect or problem after a reasonable number of attempts, the manufacturer shall, at the owner's option, replace the vehicle or offer a refund.
- When a manufacturer refunds or replaces a motor vehicle, they are also required to refund any reasonable charges the owner may have paid in shipping the defective motor vehicle back and forth to the nearest authorized facility for repairs.
- A manufacturer shall ship its dealer or repairing agent parts necessary for warranty repairs by the fastest means available (generally air freight) with no additional charge for freight or handling.



HOW DOES THE LEMON LAW DEFINE A REASONABLE NUMBER OF ATTEMPTS?

- First for a single defect or condition that defies repairs the Lemon Law says:

" (1) The same non-conformity has been subject to repair three or more times by the manufacturer, distributor, dealer or repairing agent during the term of the express warranty or the one-year period after delivery of the motor vehicle to the original owner, whichever period terminates first, but the non-conformity continues to exist;"

- Second for a motor vehicle that has been out of service for an unreasonable period of time due to a single or multiple defects the Lemon Law says:

" (2) The vehicle is out of service for repair for a total of 30 or more business days during the one-year period referred to in (1) of this subsection whichever period terminates first;"

WHAT ARE THE HITCHES?

- The defect or problem must substantially impair the use or the market value of the vehicle.
- The defect or problem must not be the result of alteration, abuse or neglect by the owner or a person other than the dealer or repairing agent.

AN ACT

Relating to motor vehicle warranties.

*Section 1. AS 45.45 is amended by adding a new section to read:

Article 6. Motor Vehicle Warranties

Sec. 45.45.300. Motor Vehicle Warranties. (a) If a new motor vehicle does not conform to an express warranty that is applicable to it and the owner of the vehicle reports the defect or condition to the manufacturer of the vehicle or to the manufacturer's or distributor's dealer during the term of the warranty, the manufacturer, distributor, dealer, or a repairing agent shall make the necessary repairs to conform the vehicle to the express warranty.

(b) If during the term of the express warranty or within one year from the date of delivery of the motor vehicle to the original owner, whichever period terminates first, the manufacturer, distributor, dealer, or repairing agent is unable to conform the motor vehicle to an applicable express warranty after a reasonable number of attempts, the manufacturer or distributor shall accept the return of the nonconforming motor vehicle, and, at the owner's option, shall replace the nonconforming vehicle with a new, comparable vehicle or shall refund the full purchase price to the owner less a reasonable allowance for the use of the motor vehicle from the time it was delivered to the original owner. A refund under this subsection shall be made to a lienholder of record, if any, and the owner, as their interests may appear.

(c) In order to claim a refund or replacement under (b) of this section, the owner shall give written notice by certified mail to the manufacturer and its dealer or repairing agent at any time before 60 days have elapsed after the expiration of the express warranty or the one-year period after the date of delivery of the motor vehicle to the original owner, whichever period terminates first (1) stating that the vehicle has a nonconformity; (2) providing a reasonable description of the nonconformity; (3) stating that the manufacturer, distributor, dealer, or repairing agent has made a reasonable number of attempts to conform the vehicle; and (4) stating that the owner demands a refund

A SAMPLE NOTICE

Name

Address

City, State, Zip

Phone (day)

Phone (night)

Dear Sir or Madam:

My _____,
Year Make of Vehicle

_____ has a non-conformity.
V.I.N.

The non-conformity is _____
Describe the Non-conformity

Your dealer or repairing agent has made a reasonable number of attempts to conform the vehicle. I demand a _____
Refund or Replacement

be delivered to me on the 60th day after the mailing of this notice.

Signature

- Any period of time that repairs are not performed for reasons that are beyond the control of the manufacturer, dealer or repairing agent is excluded from the 30-day period. This refers to situations such as labor disputes or natural disasters.
- The owner must provide written notice via certified mail to the manufacturer **and** their dealer or repairing agent. Within 30 days after receiving the notice the manufacturer may make another final attempt to repair the vehicle.
- If you choose a refund over a replacement, the refund will not include any accrued finance charges. The manufacturer may also deduct an allowance for your use of the vehicle and for excess depreciation due to damage, neglect or abuse.
- If the manufacturer has set up an approved informal dispute settlement procedure and if they offer in writing to arbitrate, you will be required to participate or you will lose the protections offered by this law.

SOME THINGS TO DO

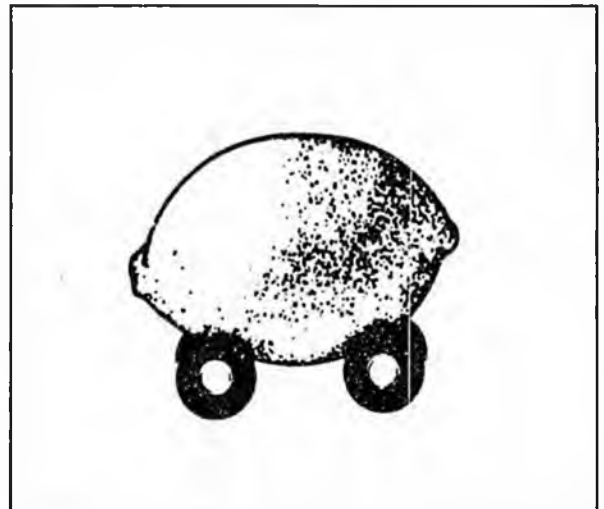
- You never know when you buy a new car whether it will turn out to be a lemon. As a new car buyer you should check out the dealership's service facility as closely as you check out the new vehicle. Is the area clean, organized, and well lit; do the equipment and tools appear modern and well maintained? A dealer who is proud of the service facility will be happy to demonstrate this. Also, ask if the dealer gives appointments for warranty repairs and what is the normal delay in obtaining an appointment.



- Prior to the sale read and understand the warranty. The dealer is required by a Federal Trade Commission rule to make all warranties available prior to the sale.
- Be wary of purchasing a service contract (extended warranty), especially contracts which are not backed by the vehicle's manufacturer. Read and understand what is covered and more importantly what is **not** covered. In most cases service contracts can be purchased up to the date the manufacturer's new car warranty expires. Remember, there is little or no benefit from a service contract during a vehicle's first year.
- Prior to taking delivery of your new car, inspect it. If any problems are noted, refuse delivery until they are corrected. Be wary of promises that "We'll take care of those problems at the first service."
- You should be very concerned if a dealer attempts to deliver a new vehicle with obvious defects.

- (3) that the manufacturer, distributor, dealer, or repairing agent has made a reasonable number of attempts to conform the vehicle; and
- (4) that the owner demands a refund or replacement vehicle to be delivered on the 60th day after the mailing of the written notice.
- (5) a description of the vehicle (year, make, and model)
- (6) the vehicle identification number. This number is located on the tag behind the driver's side of your windshield, or it can be found on the vehicle registration as "serial number."
- (7) your name, address and if possible a daytime phone number.

- If you have problems with exercising your rights under the Lemon Law or if you believe a dealer or manufacturer is not complying with the law phone or write the nearest Consumer Protection Section of the Attorney's Office listed on the back cover of this brochure.



- Once you have compiled your documentation write a chronological description of the history of your vehicle and its problems. When writing this history remember this guide: What, Why, When, How, Where and Who.
- Consider consulting with an attorney. If you do not have an attorney, contact the Alaska Bar Association's Lawyer Referral Service in Anchorage. The telephone number is 272-0352 (outside of Anchorage call toll-free ZENITH 9999). Some labor union contracts allow for legal services. If you have this coverage, contact your union representative for assistance.
- Under the Lemon Law, if you wish to claim a refund or replacement you must give written notice by certified mail to the manufacturer and its dealer or repairing agent. This notice may be sent any time before 60 days have elapsed, after the expiration of the express warranty or the one-year period, after the date of the delivery of the motor vehicle to the original owner, whichever terminates first.
- The notice must contain the following information:
 - (1) that the vehicle has a nonconformity;
 - (2) a reasonable description of the nonconformity;

- Read, understand and follow maintenance requirements contained in the owner's manual. Your driving cycle may be considered by the manufacturers as a severe operating condition and may require more frequent maintenance.
- If problems develop, contact your dealer as soon as possible to request an appointment for repairs. On the appointment date arrive 15 minutes early and be ready for up to a one-hour delay. Few Alaska dealers offer loaner or courtesy car service. Therefore, you should arrange to be picked up or plan on a cab ride.
- Give the service advisor a dated note completely describing all of the conditions you are complaining about. Do not attempt to diagnose the cause of the conditions, simply describe them.



PROPER EXAMPLE

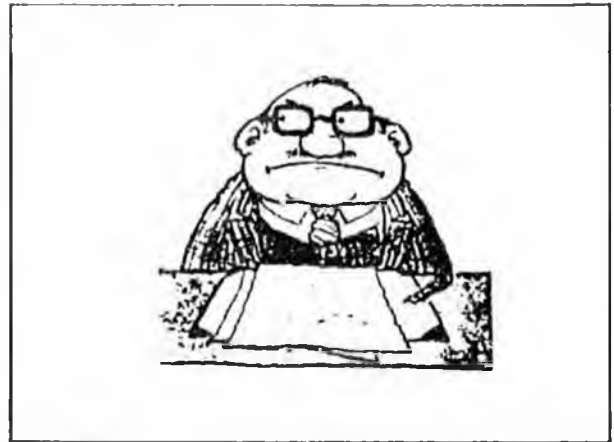
Owner: Thadius D. Foghorn
Address: 12134 N St
Anchorage, AK 99000
Vehicle: 1985 Backfire 4
(Black Hatchback)
Plate: WID 346
Home Telephone: 212-3000
Work Telephone: 202-2000

Problems

- 1) Entire car vibrates between 35 mph and 55 mph. Seems worse with passengers in back.
- 2) Engine is hard to start when hot. Starts fine when cold.
- 3) Gas mileage has dropped from 22-24 mpg to 16-18 mpg.
- 4) Last week a light on the dashboard was lit that said check engine. This morning it went out.

- Keep a copy of the note. Remember you never know if your new car is going to turn out to be a lemon.
- If it is necessary to have your vehicle towed to the dealership, ask the dealer to provide the service or reimbursement for the expenses. Some warranties offer this coverage. Other dealers have a policy that may cover towing expense. If towing is not provided keep copies of your bills. The Lemon Law allows for reimbursement of reasonable shipping expenses if the vehicle is later declared a lemon.
- An hour or two prior to picking up your vehicle call the dealer to verify repairs will be completed as scheduled. Often problems develop that can delay the repair process. If this occurs, again request a loaner vehicle.

- If your vehicle is in the shop for repairs more than one day, make sure the repair invoice shows the day it was brought in and the day it was picked up.
- Keep copies of all repair invoices for maintenance or warranty repairs. The dealer or repairing agent is required by law to furnish a copy of the repair invoice even if the repairs were done under warranty.
- If the problems persist, and you end up writing the dealer or manufacturer, keep copies of all correspondence. If you make long distance telephone calls, keep your telephone bills and make notes of who you talked to and about what.



THE DEALER HAS TRIED THREE TIMES AND STILL THE PROBLEM PERSISTS. NOW WHAT?

- First, organize all of your documentation. If you are missing any repair orders, contact your dealer or repairing agent and request a copy from their files. The dealer or repairing agent is required by the Alaskan Auto Repair Act to maintain these records for two years.

But I Don't Have Many Dissatisfied Customers.

(YOU SAY)



ARE YOU SURE?

The truth is you probably don't know how many you have because **MOST DISSATISFIED CUSTOMERS DO NOT COMPLAIN.** The average business does not hear from 96% of its unhappy customers. For every complaint received at company headquarters the average business has another 26 customers with problems, at least 6 of which are serious ones.

How can this be true? Think of your own record as a consumer and as a complainer. How often have you been less than satisfied with a product, a service, a meal in a restaurant, a wait in line? And how often have you complained to the management, the manufacturer, or the retailer? Your customers are just like you: they don't complain. Three reasons are most often given:

- “It's not worth my time or trouble.”
- “Complaining will do no good—no one cares.”
- “I don't know where or how to complain.”

Well, If They Don't Complain, They Can't Be All That Dissatisfied.

(YOU SAY)



ON THE CONTRARY!

Noncomplainers are unhappy with your product or service, mad at themselves, and frustrated. They are actually the **LEAST** likely group to buy from your company again. Even a complainer who gets no response to his complaint is more likely to buy your products again than is a noncomplainer. The odds are that between 55% and 90% of your non-complainers will **NOT** buy from you again *and you will never know why.*

Your customers who have problems and complain to you are giving you a chance to keep their business. Surveys show that you can win back between 54% and 70% of these complainers by resolving their complaints. Actually, up to 95% of this group will become loyal customers again if their complaints are handled well and quickly.



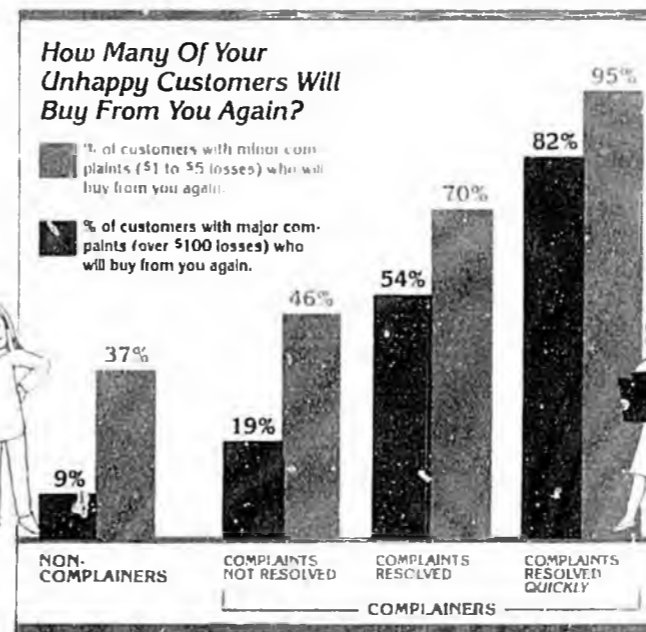
But I Can Afford To Lose Some Customers. I'll Replace Them With New Ones.

(YOU SAY)



THAT'S AN EXPENSIVE WAY TO DO BUSINESS.

How much do you spend to gain a new customer? Marketing data indicate that it usually costs five times as much to get a new customer as it does to keep an existing one.



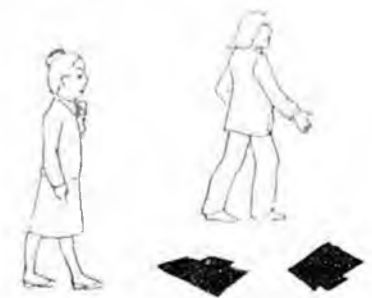
It's A Good Thing Most Of My Unhappy Customers Don't Go Around Complaining!

(YOU SAY)



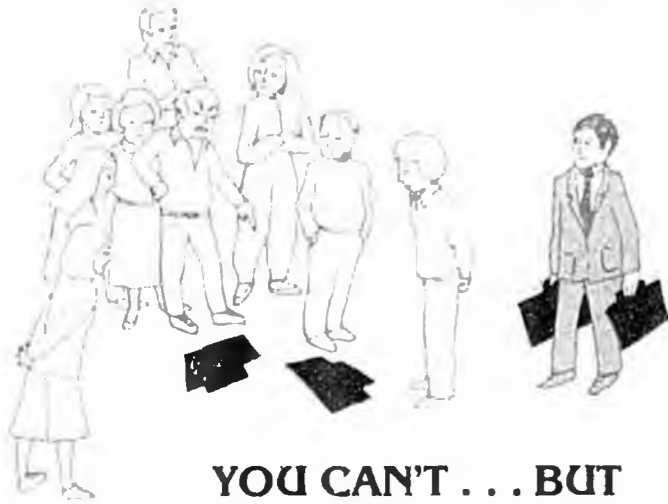
OH, BUT THEY DO!!

It's true that about 96% of your unhappy customers don't complain to you, but they do let off steam and spread their dissatisfaction with your products. They complain to other customers and potential customers (lots of them)—family, friends, associates at work, anyone who will listen. They feel wronged and frustrated and want to talk about it. **ON THE AVERAGE, A CUSTOMER WHO HAS HAD AN UNPLEASANT EXPERIENCE WITH A BUSINESS WILL TELL 9 OR 10 OTHER PEOPLE.** And about 13% will tell more than 20 other people. This negative word-of-mouth can be very harmful to your business. In today's complex marketplace more and more consumers are basing their purchasing decisions on the advice of people they know.



How Can I Keep Them Quiet?

(YOU ASK)



YOU CAN'T . . . BUT

You can turn them around. How? Solve their complaints as quickly as possible and you will not only get them back as customers but you will give them something positive to talk about. According to consumer surveys, a customer who has had a good experience with a company will tell an average of 5 other people, some of whom will become new customers. If a customer has a complaint resolved quickly and courteously, he wants to tell others about his good fortune . . . and his good sense (after all, he had the courage to complain). Speedy complaint resolution can help you keep your present customers and get new ones by changing word-of-mouth advertising from negative to positive. But remember . . . Over 96% of your dissatisfied customers may not be registering complaints with you. First you have to find out who they are and why they are unhappy.



So What Can I Do?

(YOU ASK)



The Technical Assistance Research Program, the research company that gathered the foregoing data, suggests:

- 1 Solicit complaints—make it easy for unhappy customers to tell you what their problems are.
- 2 Solve customer complaints as quickly as possible and with a smile.
- 3 Keep records of why complaints occur.
- 4 Analyze how complaints can be prevented and make changes in your products and marketing procedures when appropriate.
- 5 Provide incentives to encourage your salespeople to carry out the policies described above.

FOR ASSISTANCE: the Department of Commerce has recently published a helpful guide entitled *Managing Consumer Complaints*. This guide and four others (*Advertising, Packaging and Labeling; Product Warranties and Servicing; Credit and Financial Issues; and Consumer Product Safety*) were written for the express purpose of helping businesses respond to their customers needs. These booklets were written with the assistance of the National Association of Consumer Agency Administrators (NACAA) and the Society of Consumer Affairs Professionals in Business (SOCAP). For more information, call or write the Office of Consumer Affairs, Department of Commerce, Washington, DC, 20230 (202) 377-5001.

Who Says So?

(YOU ASK)



The data reported in this pamphlet are based on studies conducted by Technical Assistance Research Programs, Inc. (TARP, a Washington, D.C. based research firm) for the White House, the National Science Foundation, and a number of private companies. See TARP, *A National Survey of the Complaint-Handling Procedures Used by Consumers*, NTIS PB-263-082 (Washington, D.C.: White House Office of Consumer Affairs, 1976); *Consumer Complaint Handling in America: Final Report*, NTIS PB 80-176316 (Washington, D.C.: White House Office of Consumer Affairs, 1980); and *Measuring the Grapevine—Consumer Response and Word-of-Mouth*, (Atlanta, Georgia: Consumer Information Center, The Coca-Cola Company, 1981).

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The Foundation runs consumer conferences; publishes a free quarterly newsletter, *AT HOME WITH CONSUMERS*, that presents diverse points of view on topical consumer issues; develops and distributes consumer information literature in English and Spanish; supports research on consumer and marketplace matters; and maintains a library in Washington.



Direct Selling Education Foundation
1730 M Street, N.W.
Washington, DC 20036
(202) 293-5760

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CUSTOMERS MEAN BUSINESS...



SURVEYS SHOW

You Have More Dissatisfied Customers Than You Think



Check Cashing Precautions!

CHECK
THAT
CHECK

UNITED STATES POSTAL SERVICE
Postal Inspection Service
Washington, DC 20260

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



United States Postal
Inspection Service

Notice 178 April 1981

CHECK CASHING PRECAUTIONS!

Businesses lose millions of dollars each year by unwittingly cashing checks or honoring credit cards stolen from the mail, often by accepting false, altered or incomplete identification.

The Postal Inspection Service, which investigates theft of all mail, suggests the following precautions to help you protect your business:

1. Require at least two types of identification.

Be sure to record all information on the check. Social Security cards are not reliable identification. They are easily obtained and cannot be traced. A state driver's license is one example of a usually reliable ID because it bears a signature, often has a picture on it and has the general advantage of being an officially issued document that is subject to fairly tight controls.

2. Examine the date on identification to determine if it was obtained close to the date on the check. If a photo-ID is used, OBSERVE WHETHER THE PERSON IS DRESSED IN THE SAME CLOTHING AS IN THE PHOTO-ID.

Both observations may indicate the ID is bogus and is being used to cash a stolen check. Be sure the physical description and photograph match the person.

3. Do not accept identification that is unfamiliar to you; it may be one of a kind. There are many photo-ID shops which issue cards in any name, and these are frequently used by forgers.

4. Examine each check closely. U.S. Treasury and state checks, for example, usually include the purpose for payment on the face, e.g., "Soc. Sec.," "Ret.," "Tax Ref.," "CSF Annuity," "V.A. Ed.," etc. Ask the person why the check was issued. The presenter should be able to tell you without hesitation.

5. Observe the person. Is the individual overly nervous? Does the appearance correspond with the purpose of the check? For example, a retirement check presented by a young individual is cause for concern.

6. Beware of second endorsements and any check that is not signed in your presence. Compare signatures on the identification against endorsements on the check. If the check has already been signed, have it signed again in your presence.

7. Take your time. If you question the person's identity, ask for their telephone number and then verify it in the phone book. If you have any doubts, call the listed number for verification, and ask for additional identification or verification.

8. Take personal note of vehicle license numbers when possible and record them on checks.

9. The check should be initialed by the employee accepting it.

10. Many of the above precautions also apply to accepting credit cards. When accepting credit cards, check lost/stolen credit card lists. Follow the guidelines set by the credit card company. Compare the signature on the card with the newly signed charge slip and ask for additional identification, if necessary.

11. Call your local police immediately if you are in any way suspicious. Postal Inspectors should also be notified if you believe the check or credit card may have been stolen from the mail.

NOTE: You may wish to consider using one of the commercially available identification systems. Taking photographs and/or thumbprints often deters forgers and will help identify offenders.

FDIC Offices

Director
Office of Bank Customer Affairs
Federal Deposit Insurance Corporation
Washington, D.C. 20429

ATLANTA REGION

Regional Director
Federal Deposit Insurance Corporation
2 Peachtree Street, N.W., Suite 3030
Atlanta, Georgia 30303

Alabama
Florida
Georgia

BOSTON REGION

Regional Director
Federal Deposit Insurance Corporation
2 Center Plaza, Room 810
Boston, Massachusetts 02108

Connecticut, Maine
Massachusetts
New Hampshire
Rhode Island, Vermont

CHICAGO REGION

Regional Director
Federal Deposit Insurance Corporation
233 S. Wacker Drive, Suite 6116
Chicago, Illinois 60606

Illinois
Indiana

COLUMBUS REGION

Regional Director
Federal Deposit Insurance Corporation
37 West Broad Street, Suite 600
Columbus, Ohio 43215

Kentucky
Ohio
West Virginia

DALLAS REGION

Regional Director
Federal Deposit Insurance Corporation
300 North Ervay Street, Suite 3300
Dallas, Texas 75201

Colorado
New Mexico
Oklahoma
Texas

MADISON REGION

Regional Director
Federal Deposit Insurance Corporation
1 South Pinckney Street, Room 813
Madison, Wisconsin 53703

Michigan
Wisconsin

MEMPHIS REGION

Regional Director
Federal Deposit Insurance Corporation
165 Madison Avenue, Suite 1010
Memphis, Tennessee 38103

Arkansas
Louisiana
Mississippi
Tennessee

MINNEAPOLIS REGION

Regional Director
Federal Deposit Insurance Corporation
730 Second Avenue South, Suite 266
Minneapolis, Minnesota 55402

Minnesota, Montana
North Dakota
South Dakota
Wyoming

NEW YORK REGION

Regional Director
Federal Deposit Insurance Corporation
345 Park Avenue, 21st Floor
New York, New York 10022

New Jersey
New York
Puerto Rico
Virgin Islands

OMAHA REGION

Regional Director
Federal Deposit Insurance Corporation
1700 Farnam Street, Suite 1200
Omaha, Nebraska 68102

Iowa
Nebraska

PHILADELPHIA REGION

Regional Director
Federal Deposit Insurance Corporation
5 Penn Center Plaza, Suite 2901
Philadelphia, Pennsylvania 19103

Delaware
Maryland
Pennsylvania

RICHMOND REGION

Regional Director
Federal Deposit Insurance Corporation
908 E. Main Street, Suite 435
Richmond, Virginia 23219

District of Columbia
North Carolina
South Carolina
Virginia

ST. LOUIS REGION

Regional Director
Federal Deposit Insurance Corporation
720 Olive Street, Suite 2909
St. Louis, Missouri 63101

Kansas
Missouri

SAN FRANCISCO REGION

Regional Director
Federal Deposit Insurance Corporation
44 Montgomery Street, Suite 3600
San Francisco, California 94104

Alaska, Arizona
California, Guam
Hawaii, Idaho
Nevada, Oregon
Utah, Washington

FEDERAL ENFORCEMENT AGENCIES

National Banks

Comptroller of the Currency
Consumer Affairs Division
Washington, D.C. 20219

State Member Banks

Federal Reserve Bank serving the area in which the State member bank is located.

Nonmember Insured Banks

FDIC Regional Director for the Region in which the nonmember insured bank is located or the Office of Bank Customer Affairs in Washington, D.C. The addresses of these offices are listed in this brochure.

Savings Institutions Insured by the FSLIC and Members of the FHLB System (except for Savings Banks insured by FDIC)

The FHLBB's Supervisory Agent in the Federal Home Loan Bank District in which the institution is located.

Federal Credit Unions

Regional Office of the National Credit Union Administration, serving the area in which the Federal Credit Union is located.

Creditors Subject to Civil Aeronautics Board

Director, Bureau of Enforcement
Civil Aeronautics Board
1825 Connecticut Avenue, N.W.
Washington, D.C. 20428

Creditors Subject to Packers and Stockyards Act

Nearest Packers and Stockyards Administration area supervisor.

Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations

Farm Credit Administration
490 L'Enfant Plaza West
Washington, D.C. 20578

Retail Department Stores, Consumer Finance Companies, All Other Creditors, and All Nonbank Credit Card Issuers

Truth in Lending
Federal Trade Commission
Washington, D.C. 20580

Text prepared by staff members of the Federal Reserve Board

FEDERAL DEPOSIT INSURANCE CORPORATION
550 17th Street, N.W., Washington, D.C. 20429

P-1400-004-77

3-16-77

FAIR CREDIT BILLING

your rights

FDIC
FEDERAL DEPOSIT INSURANCE CORPORATION

"Charge it!" Magic words—unless there's an error when your bill comes. If ever you've been hassled by the credit department's computer, you'll be pleased to learn about the *new rights that you have when you think that your bill is wrong*.

Fair Credit Billing, an addition to the Truth in Lending law, requires prompt correction of billing mistakes. This pamphlet explains how to resolve a billing dispute in a way that protects your credit rating.

Billing Error

You may challenge either the purchase or the price of an item that appears on your billing statement. The law defines an error as any charge:

- Not made either by you or someone authorized to use your account
- Poorly identified, for a different amount or on a different date than is shown on the statement
- Something which you did not accept on delivery or which was not delivered according to agreement

Billing errors also include:

- Failure to credit your account properly
- Computational or accounting mistakes
- Failure to mail your statement to your current address, provided you notified the creditor of your address change at least 10 days before the billing period ended

A request for additional information or an explanation about a questionable item is also considered a billing error.

In Case of Error

If you think your bill is wrong or want more information about it, follow these steps:

1. Notify the creditor in writing within 60 days after the bill was mailed. Be sure to include:
 - Your name and account number;
 - A statement that you believe the bill contains an error and an explanation of *why* you believe there is an error;
 - The suspected amount of the error.

2. While you are waiting for an answer, you do not have to pay the amount in question (the "disputed amount") or any minimum payments or finance charges that apply to it. But you are still obligated to pay all parts of the bill that are *not* in dispute.

3. The creditor must acknowledge your letter within 30 days, unless your bill is corrected before that. Within two billing periods—but in no case more than 90 days—your account must either be corrected or you must be told why the creditor believes the bill is correct.

4. If the creditor made a mistake, you do not pay any finance charges on the disputed amount. Your account must be correct for either the full amount in dispute, or for a part of that amount along with an explanation of what you still owe. You then have the time usually given on your type of account to pay any balance.

If no error is found, the creditor must promptly send you a statement of what you owe. In this case, the creditor may include any finance charges that accumulated and any minimum payments you missed while you were questioning the bill.

5. If you still are not satisfied, you should notify the creditor within the time you have to pay your bill. However, the creditor has now fulfilled his legal obligation (except for the requirements that follow regarding your credit rating).

Your Credit Rating

Once you have written about a possible error, the creditor may not give out information to other creditors or credit bureaus or threaten to damage your credit rating. Until your letter is answered, the creditor also may not take any collection action on the disputed amount, or restrict your account because of the dispute. A creditor can, however, apply the disputed amount against your credit limit.

But, after the bill has been explained—and if you still disagree in writing within the time allowed for payment and do not pay—the creditor can report you as delinquent on your account and begin collection proceedings. If this is done, the creditor must also report that you challenge your bill, and you must be provided in writing the name and address of each person to whom your credit information has been given. When the matter is settled, the creditor must report the outcome to each person who received information about you.

Defective Merchandise or Services

The law now provides that you may withhold payment of any balance due on defective merchandise or services purchased with a credit card, provided you have made a good faith effort to return the goods or resolve the problem with the merchant from whom you made the purchase.

If the store that honored the credit card was not also the issuer of the card, two limitations apply to this right:

- The original amount of the purchase must have exceeded \$50; and
- The sale must have taken place in your State or within 100 miles of your current address.

In the case of defective merchandise or services, a legal action may result to determine the validity of your claim.

Penalties and Other Provisions

The law provides that any creditor who fails to comply with these rules applying to billing errors and credit ratings automatically forfeits the amount of the item in question and any finance charges on it, up to a total of \$50, even if no error occurred. You as an individual may also sue for actual damages plus twice the amount of any finance charges, in any case not less than \$100 or more than \$1,000. Class action suits are also permitted.

The law also includes requirements for prompt reporting and crediting of payments or return of merchandise. In addition, it provides that credit card issuers may not prohibit stores which honor their cards from offering discounts to customers who pay in cash or by check.

To Find Out More

Creditors must provide you a complete statement of your Fair Credit Billing rights when you first open an account and at least twice annually (or send a shorter version with each billing). If you have any further questions about Fair Credit Billing, please contact one of the FDIC's 14 Regional Offices or the Office of Bank Customer Affairs. Other Federal agencies which enforce Fair Credit Billing for particular creditors are also listed in this brochure.

How to guard credit and charge cards

Always:

- Sign new cards as soon as they arrive.
- Keep a record of your card numbers, their expiration dates, and the phone number and address of each company.
- Retrieve cards promptly after using them.
- Void or destroy incorrect receipts.
- Save receipts to compare them with billing statements.
- Open billing statements promptly and reconcile your card accounts each month, just as you would your checking account.
- Report promptly any questionable charges to the card issuers.
- Notify card companies in advance of a change of address.

Never:

- Lend card(s) to anyone.
- Leave cards or receipts lying around.
- Put a card number on a postcard or on the outside of an envelope.
- Give a card number over the phone *unless* you are initiating a transaction with a company you know is reputable. If you have questions about a company, check with your local Consumer Protection Office or Better Business Bureau before ordering.

If you suspect someone is using your account number without your permission:

Send the card issuer a letter that includes your name, account number(s), and the charges that you question, with your reasons. You must direct your letter to the "billing error address" provided on your statement, and it must reach the creditor within 60 days after the first bill containing the error was mailed to you. Sending your letter by certified mail, with a return receipt requested, will give you proof that the letter was mailed and received.

If you decide to call the card issuer for faster action—using the special numbers that many card issuers list on billing statements—follow up with a letter. Only a letter protects your rights under the Fair Credit Billing Act.

The card issuer must acknowledge receipt of your letter or correct the error within 30 days. Or, they must investigate and either correct the mistake or justify the charges within two billing cycles or 90 days, whichever is less. You may be asked to sign a statement under oath that you did not make the purchases(s) in question.

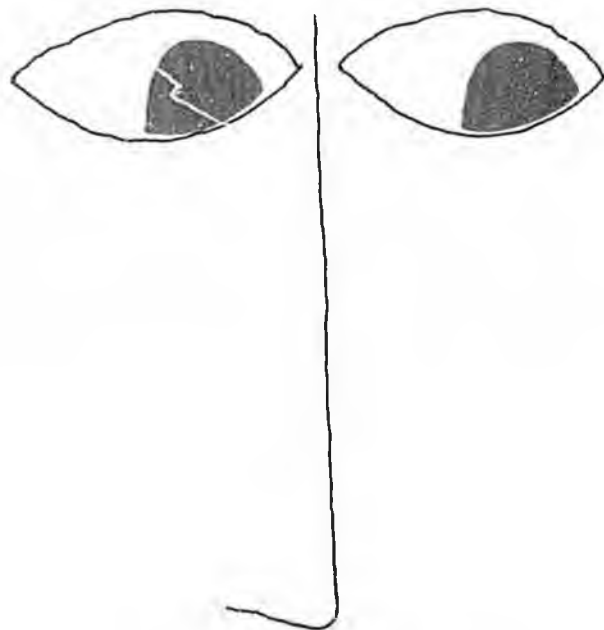
For more information about your rights, contact the Federal Trade Commission, Washington, D.C. 20580.



Published by the Consumer Affairs Office, American Express Company in cooperation with the Federal Trade Commission
American Express Company 1984

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Who's got your number?



Protect yourself against credit and charge card fraud.

Would you...

Give your checking account number and current balance to an unfamiliar caller?

Leave your ID and a blank check behind at a restaurant?

Send cash through the mail?

Of course not...

But thousands of Americans do things that are just as risky as sending cash through the mail. Giving credit or charge card numbers to unknown callers, or carelessly tossing away card receipts are some of the ways consumers unwittingly fall victim to credit card fraud.

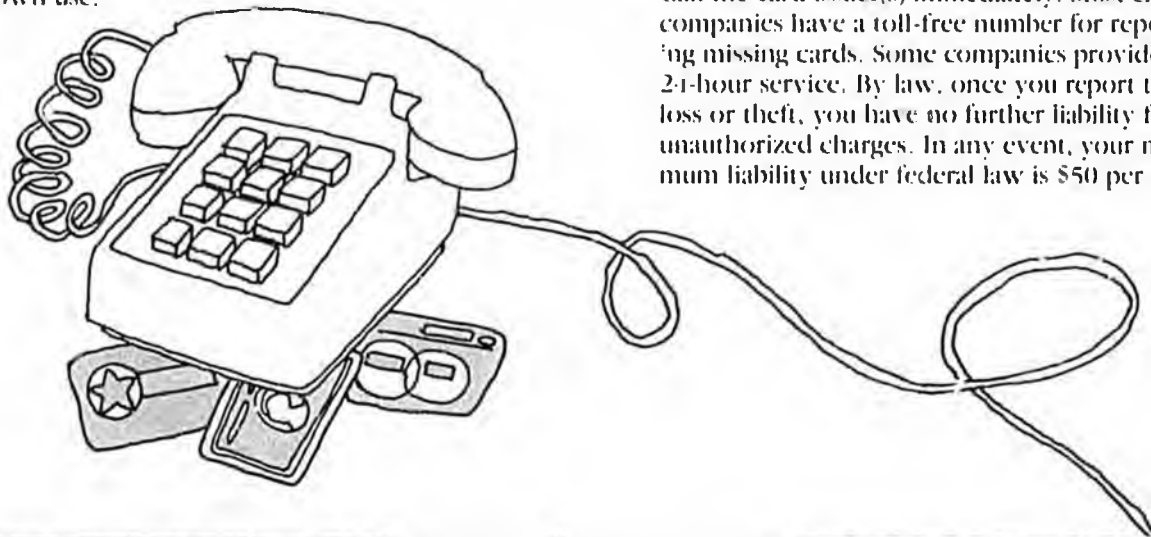
The cost of credit and charge card fraud—to card holders and to card companies alike—may be as high as \$500 million a year. Everyone pays for card fraud in higher prices, whether or not they are personally defrauded.

While theft is the most obvious form of card fraud, it is not the only way crimes occur. A more subtle crime is "misappropriation": the use of your card number (not the card itself) without your permission.

How can it happen?

Misappropriation may occur in a variety of ways:

- A caller says that to qualify for a discount vacation or a special investment opportunity you need only give your card number and its expiration date. Neither offer is genuine—the caller wants your card number for an illegal use.
- Someone rifles the trash behind a store for discarded card receipts or carbons to get numbers for making counterfeit cards or for ordering merchandise by mail or phone.
- A dishonest clerk makes an extra imprint from the credit or charge card for his or her own use.



Consider taking other precautions:

- Keep infrequently used cards in a secure place.
- Carry cards separately from your wallet.
- Keep the card in view, whenever you can, after you give it to a clerk.
- Avoid signing a blank receipt, if possible.
- Draw a line through blank spaces above the total when you sign card receipts.
- Destroy carbon papers on card receipts.
- Instruct others who are authorized to use your account to take these same precautions.

If cards are lost or stolen:

Call the card issuer(s) immediately. Most card companies have a toll-free number for reporting missing cards. Some companies provide 24-hour service. By law, once you report the loss or theft, you have no further liability for unauthorized charges. In any event, your maximum liability under federal law is \$50 per card.

— If you pay by a charge or credit card not issued by the seller, the law says you can stop payment on the amount in dispute by notifying the company that issued the card. They must then get your problem settled within two billing cycles (but not more than 90 days).

The law says

- If you win the dispute, the unpaid amount will be credited to your account.
 - If your problem is not resolved to your satisfaction, you may not withhold payment unless you've made a sincere effort to work out the problem with the seller and provided:
 - 1) the transaction is over \$50, and
 - 2) the seller is located within your state or within 100 miles of your home.
- In such event the seller is permitted to use other legal means to determine the validity of your claim and attempt to collect the money from you.

Most firms are reliable and depend upon repeat orders and goodwill to stay in business. If you don't get results within a reasonable time, contact the agencies listed below. Include details, a copy of your canceled check, charge or credit card statement and, if available, a copy of the original ad.

**Mail Fraud —
Misrepresentation**

Your local Postmaster or
Inspector or
Chief Postal Inspector
U.S. Postal Service
Room 3517
Washington, D.C. 20260-
2100
(202) 245-5445

**Sexually Offensive Mail
Your local Postmaster**

**For Any Mail Service
Questions**

Your local Postmaster or
The Consumer Advocate
U.S. Postal Service
Washington, D.C. 20260-
6320
(202) 245-4514

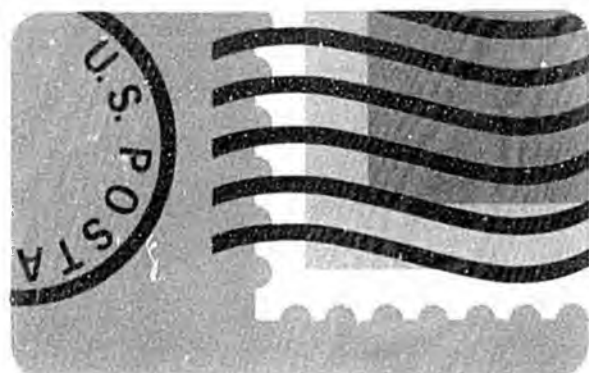
**Unordered Merchandise
and Mail Order Delay**

Consumer Inquiries
Federal Trade
Commission
Washington, D.C. 20580
(202) 523-3598

**For Any Mail Order
Questions**

Your local Consumer
Protection Agency or
The Direct Mail Market-
ing Association (DMMA)
6 East 43rd Street
New York, N.Y. 10017
(212) 689-4977

To have your name re-
moved or added to mail-
ing lists, contact DMMA at
the same address.
ATTENTION: Mail
Preference Service



ConsumerCard

Keep it handy . . .

**It's what you need to know to shop by
mail or phone with confidence,
satisfaction and protection.**



One in a series published by the ConsumerCardSM Committee,
Service of the Consumer Affairs Office, American Express Company.
Created in cooperation with the United States Postal Service, U.S.
Council on Consumer Affairs and the Consumer Information Center of
the General Services Administration.

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Consumers order millions of items from mail order companies each year. Shopping at home can offer you convenience, better service, wider selection, and more complete product information. But remember these tips to keep your mail order shopping trouble-free.

• Deal with reliable firms. In doubt? Check the Better Business Bureau or consumer protection agency where the company is located, or the Direct Mail/Marketing Association. Read advertisements carefully. Don't rely on pictures alone. Contact the company about its warranty and exchange policy, missing facts or questionable claims.

• Pay by money order, check, charge or credit card so you have a record. Never send cash. Clearly mark name and address on the order form. Keep a copy of the ad, order form, correspondence, company's name and address, and mailing costs.

It helps to know your legal rights. The U.S. Postal Service and the Federal Trade Commission enforce laws covering purchases by mail or phone.

—If a package is late, first check your local Post Office. They may be holding it for you

The FTC Mail Order Rule says mail order companies must ship your order within the time promised, or, if no time is stated, within 30 days of receipt of your properly completed order and payment. If you pay by charge or credit card, the 30 days begin when you are charged.

In case of delay, the seller must notify you when your order will be shipped. If the new delivery date is more than 30 days past the original date promised, you can accept the new shipping date or you can cancel for a full refund. Either way, you must do so in writing. (An easy, no-cost means for canceling must be sent to you.) If the delay is less than 30 days, the process is the same, except that if you don't answer, it means you accept.

The seller must refund all your money within seven working days after receiving your CANCEL order if merchandise cannot be shipped within 30 days, or if you do not accept a delay offer. If your order was billed as a charge or credit, the seller has one billing cycle to notify the charge or credit card issuer to credit your account.

Exceptions to the Mail Order Rule include spaced deliveries such as magazine subscriptions (but not the first shipment), other spaced orders not charged until shipped, COD, photo finishing, seeds or growing plants.

—If a product you didn't order comes in the mail, it is illegal to pressure you to return it or to pay for it. But be sure it's not part of a merchandise series you or a family member ordered.

—To prohibit mailings, obtain forms from your local Postmaster.

—At your request, the Direct Mail/Marketing Association will ask to have your name removed from (or added to) the lists of their members.

—If damage is obvious, or if you decide not to accept the package, write "REFUSED" on the wrapper (at the time of delivery) and return it unopened to the seller. No new postage is needed, unless the package came by insured, registered, certified or COD mail and you signed for it.

If you open it first, enclose a note explaining the problem. Repackage it, add new postage, and mail it back by certified or insured mail.

—Check the warranty or ask the seller about replacement, repair or refund. If you think the advertising was misleading, or you suspect fraud, contact the Postal Inspection Service.

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state of alaska
 department of law
 consumer protection section

BILL SHEFFIELD
 GOVERNOR
 NORMAN C. GORSUCH
 ATTORNEY GENERAL

S.S. Fuller Building
 4th & Harris, Suite 214
 Pouch K
 JUNEAU, AK 99811
 465-3692

1031 West 4th Avenue
 Suite 110
 ANCHORAGE, AK 99501
 279-0428

1st National Center
 100 Cushman, Suite 400
 FAIRBANKS, AK 99701
 456-8588

P. O. Box 671
 VALDEZ, AK 99686
 835-2462

CONSUMER PROTECTION NEWSLETTER

FALL 1983

YOU WON!!!

How lucky! You've been selected. You have won a color television, a home computer, a video recorder, diamond jewelry, or an all expenses paid vacation. Great. Or, is it? Did you really win? Is it really free?

No; you and thousands of others were all selected to win these prizes which could easily cost you several

Alaskans are being "selected" by the thousands to "win" just such prizes. All you have to do to claim your prize is to purchase vitamins, pens, or printed advertisements for your business. Sounds worth it, doesn't it?

Chances are, it isn't worth it. The Consumer Protection Section of the Attorney General's Office reports numerous complaints about just

frequently, the fabulous "prize" turns out to be virtually worthless. And, the merchandise you had to buy to receive the prize is far less desirable than represented. In some cases, even after you have paid for your merchandise, you never receive either the merchandise or the prize.

Beware; these contest lures can be hazardous to your

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456-8588

P. O. Box 671
VALDEZ, AK 99686
835-2462

CONSUMER PROTECTION NEWSLETTER

SUMMER 1984

LEMON LAW PASSES!

lemon law On June 13, 1984 Governor Bill Sheffield signed into law HCS-CSSB 286, commonly known as the "Lemon Law."

"This legislation, first introduced by Representative Mike Miller (D-Juneau) was subject to much scrutiny by both the Senate and the House before it evolved into its present form," Sheffield said. "While 30 other states have

purchases made prior to the effective date, it is not intended to have a retroactive effect. Consequently, new car purchasers whose purchase dates occur after September 11, 1984, will be covered under this law while those occurring before will not. By early September, the Consumer Protection Section of the Attorney General's Office will have available a brochure explaining the new law.

seriously. They are only issued on the most serious problems. 1980 Subaru owners should have received notification from Subaru of a steering rack recall. It appears that the boot which protects the rack can't stand our cold winters. The failure of this boot can cause corrosion which results in hard steering or seizure. If you own a 1980 Subaru and did not receive a

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ALASKA LANDLORD- TENANT LAW

December 1983
Revised

Cooperative Extension Service
University of Alaska

and

State of Alaska
Department of Law

Barbara G. Eichner
Home Economist
Anchorage District

This booklet is a revision of P-98 "Alaska's Landlord-Tenant Law," originally prepared by Alaska Legal Services with the Cooperative Extension Service in 1974. Revised editions were prepared in 1975 and 1980.


The 1983 revision was prepared with the assistance of Alaska Legal Services, the Alaska Law Library, the Consumer Protection



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

HB

151

HB 151 File Contents

- 1) Bill Summary -- Legislative Reporting Service
- 2) Overview -- R. Poppe, L & C Committee Staff
- 3) Sectional Analysis -- See Governor's Transmittal Letter
- 4) Governor's Letter of Transmittal
- 5) Fiscal Note -- Dept. of Labor, Labor Standards & Safety Div.
- 6) Fiscal Note and Fiscal Analysis -- Dept. of Commerce,
Occupational Licensing Div.
- 7) Fiscal Note, Sectional Analysis, and Position Statement,
Amendments -- Dept. of Labor --February 20
- 8) Letter from Wayne Wolfe to Rep. Mike Davis

INTRODUCTION OF BILLS (House)(cont'd)

Construction Contractors
(protection of public)

HOUSE BILL NO. 151, by the Rules Committee by Request of the Governor. Increases protection of the public from unlicensed and unbonded construction contractors (see Governor's letter).

Introduced January 30 and referred to Labor & Commerce, Judiciary and Finance.

In his letter transmitting the bill to the House, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that increases protection of the public from unlicensed and unbonded construction contractors by strengthening the enforcement powers of the Department of Labor and the Department of Commerce and Economic Development. It gives those departments specific authority to enter construction sites, investigate, and issue criminal citations for violations of the construction contracting laws, especially the licensing requirements. In regard to civil enforcement, the bill establishes a set civil penalty amount which may be imposed in addition to injunctive relief. In addition, the bill essentially doubles the bonding requirements for both general and specialty contractors to cover more adequately any costs of contract, wage, and damage claims against the contractor.

Due to the increased construction activity in Alaska and the poor economy in the "Lower 48," the problem of unlicensed construction contractors has become almost uncontrollable and the public is suffering because of it. Homeowners who unwittingly hire an unlicensed contractor and later find the work performed to be unsatisfactory and defective are faced with a sad situation. First, it will be difficult to locate the contractor. Second, if the homeowner is fortunate enough to find the person, there will have been no bond posted to recover claims against the contractor and it is highly unlikely that the contractor will have the personal finances to provide proper compensation. And third, the homeowner will then have to hire a new contractor to redo the job.

The enforcement mechanism used most often now, a "cease and desist order," is unfortunately ignored by the unlicensed contractors. They simply wait until the investigator is gone and then continue working. And it is rare that an unlicensed contractor is criminally prosecuted for that offense.

Therefore, new and more effective enforcement methods must be employed, such as the issuance of citations, in addition to an increased effort in the area of department investigation and enforcement. Moreover, since the licensing process itself does not require a showing of competence, the bonding amount required must be raised to adequately cover potential claims.

More specifically, the bill provides for the following:

Section 1 imposes criminal and civil liability upon a general contractor for allowing an unlicensed specialty contractor to work for him or her. The unlicensed specialty contractor, of course, would also be in violation of the law as provided by existing statutes (AS 08.18.011(a)).

Section 2 prohibits registration during the period of a previous revocation or suspension of a contractor's license and until a fine imposed under this chapter has been paid.

Section 3 adds the requirement that all advertising, contracts, correspondence, cards, signs, posters, papers, and documents prepared by a contractor for the contractor's business include the mailing address and the address of his or her principal place of business, in addition to the already-required name and address. The bill also adds a new requirement that all advertising and contracts include the contractor's registration number.

Section 4 increases the bonding amount required for general contractors from \$5,000 to \$10,000 and for specialty contractors from \$2,000 to \$5,000.

INTRODUCTION OF BILLS (House)(cont'd)

HB 151 (cont'd)

Section 5 gives authority to investigators from the Department of Commerce and Economic Development and the Department of Labor to enter construction sites and issue

citations for violations of the construction contracting laws, with special emphasis placed on licensing violations. The form and issuance of citation will be similar to that used by peace officers in their issuance of fish and game citations, park citations and traffic citations. Commerce and labor investigators will not have the authority to arrest, however.

Sections 6 and 7 of the bill work to give separate enforcement authority to the Department of Labor and the Department of Commerce and Economic Development in the issuance of a stop order.

Section 8 establishes that both departments can institute an injunctive proceeding in the superior court. It also sets out that, in addition to other relief and any criminal penalties that may be imposed, a civil penalty not to exceed \$250 may be imposed for each violation of AS 08.18, and that each day an unlawful act continues after an injunction has been issued constitutes a separate violation.

Section 9 provides that an unlicensed person acting in the capacity of a contractor, or a general contractor who hires an unlicensed specialty contractor, is guilty of a class B misdemeanor. A class B misdemeanor carries maximum penalties of 90 days in jail and \$1,000 fine. A criminal prosecution under AS 08.18 does not preclude the department from seeking civil remedies, as well. All other violations of AS 08.18, such as failure to put a mailing address on a business card, will be considered a violation and subject to a fine of no more than \$300.

Sections 10 -- 12 pertain to definitions and effective dates. The bill provides for an immediate effective date for all sections except sec. 3. One of the main reasons for an immediate effective date is that the new bonding amounts will then be in force when new contractors register this spring and early summer. The amendments made by sec. 3 would require reprinting of documents used by contractors. The January 1, 1986 effective date for that section will allow current supplies to be used and arrangements to be made for reprinting.

To protect the owners and users of all private and public homes and buildings, I urge early passage of this bill.

Board Members HOUSE BILL NO. 152, by the Rules Committee by Request of the
Term of Office Governor. Would permit appointees to certain boards and
(expiration commissions to hold office beyond the expiration of their
dates) term until a successor is appointed (see accompanying letter).

Introduced January 30 and referred to State Affairs and Judiciary.

In his letter transmitting the bill to the House, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would permit appointees to certain boards and commissions to hold office beyond the expiration of their term until a successor is appointed. It also makes some incidental style changes in the statute's wording.

Because of the proliferation of boards and commissions since statehood, the task of appointing enough qualified persons to keep all boards up to full strength is an impossible one. There are approximately 1,000 appointments to State boards and commissions. Approximately 75 percent of all appointments to be made are highly restricted by law as to the backgrounds, location, and professional expertise of the individuals that can be considered. As a result, the recruitment and review process that must be accomplished prior to appointment has become more time consuming than in the past years.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 30, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that increases protection of the public from unlicensed and unbonded construction contractors by strengthening the enforcement powers of the Department of Labor and the Department of Commerce and Economic Development. It gives those departments specific authority to enter construction sites, investigate, and issue criminal citations for violations of the construction contracting laws, especially the licensing requirements. In regard to civil enforcement, the bill establishes a set civil penalty amount which may be imposed in addition to injunctive relief. In addition, the bill essentially doubles the bonding requirements for both general and specialty contractors to cover more adequately any costs of contract, wage, and damage claims against the contractor.

Due to the increased construction activity in Alaska and the poor economy in the "Lower 48," the problem of unlicensed construction contractors has become almost uncontrollable and the public is suffering because of it. Homeowners who unwittingly hire an unlicensed contractor and later find the work performed to be unsatisfactory and defective are faced with a sad situation. First, it will be difficult to locate the contractor. Second, if the homeowner is fortunate enough to find the person, there will have been no bond posted to recover claims against the contractor and it is highly unlikely that the contractor will have the personal finances to provide proper compensation. And third, the homeowner will then have to hire a new contractor to redo the job.

The enforcement mechanism used most often now, a "cease and desist order," is unfortunately ignored by the unlicensed contractors. They simply wait until the investigator is

gone and then continue working. And it is rare that an unlicensed contractor is criminally prosecuted for that offense.

Therefore, new and more effective enforcement methods must be employed, such as the issuance of citations, in addition to an increased effort in the area of department investigation and enforcement. Moreover, since the licensing process itself does not require a showing of competence, the bonding amount required must be raised to adequately cover potential claims.

More specifically, the bill provides for the following:

Section 1 imposes criminal and civil liability upon a general contractor for allowing an unlicensed specialty contractor to work for him or her. The unlicensed specialty contractor, of course, would also be in violation of the law as provided by existing statutes (AS 08.18.011(a)).

Section 2 prohibits registration during the period of a previous revocation or suspension of a contractor's license and until a fine imposed under this chapter has been paid.

Section 3 adds the requirement that all advertising, contracts, correspondence, cards, signs, posters, papers, and documents prepared by a contractor for the contractor's business include the mailing address and the address of his or her principal place of business, in addition to the already-required name and address. The bill also adds a new requirement that all advertising and contracts include the contractor's registration number.

Section 4 increases the bonding amount required for general contractors from \$5,000 to \$10,000 and for specialty contractors from \$2,000 to \$5,000.

Section 5 gives authority to investigators from the Department of Commerce and Economic Development and the Department of Labor to enter construction sites and issue citations for violations of the construction contracting laws, with special emphasis placed on licensing violations. The form and issuance of citation will be similar to that used by peace officers in their issuance of fish and game citations, park citations and traffic citations. Commerce and labor investigators will not have the authority to arrest, however.

Sections 6 and 7 of the bill work to give separate enforcement authority to the Department of Labor and the Department

of Commerce and Economic Development in the issuance of a stop order.

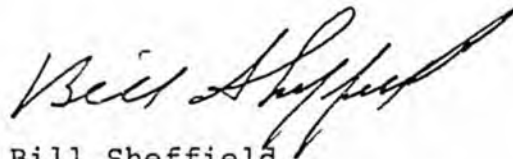
Section 8 establishes that both departments can institute an injunctive proceeding in the superior court. It also sets out that, in addition to other relief and any criminal penalties that may be imposed, a civil penalty not to exceed \$250 may be imposed for each violation of AS 08.18, and that each day an unlawful act continues after an injunction has been issued constitutes a separate violation.

Section 9 provides that an unlicensed person acting in the capacity of a contractor, or a general contractor who hires an unlicensed specialty contractor, is guilty of a class B misdemeanor. A class E misdemeanor carries maximum penalties of 90 days in jail and \$1,000 fine. A criminal prosecution under AS 08.18 does not preclude the department from seeking civil remedies, as well. All other violations of AS 08.18, such as failure to put a mailing address on a business card, will be considered a violation and subject to a fine of no more than \$300.

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To protect the owners and users of all private and public homes and buildings, I urge early passage of this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

Revision Date: _____

REQUEST

Bill/Resolution No.: _____
 Title: "An Act relating to
 construction contractors"
 Sponsor: Rules Committee
 Requestor: Rules Committee
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public
 Protection
 BRU, Program or Subprogram(s) Affected:
 Labor Standards and Safety-Wage and Hour
 Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas *R. Bacolas* Phone: 465-4870
 Division: Labor Standards and Safety Date: January 21, 1985

Approved by Commissioner: Jim Robison *Jim Robison* Date: January 21, 1985
 Agency: Labor

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Revision Date: _____

REQUEST

Bill/Resolution No.: _____
Title: An Act relating to
Construction Contractors
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
Program Category Affected: _____
Consumer Protection
BRU, Program or Subprogram(s) Affected: _____
Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		151.8	159.4	167.4	175.8	184.6
200 TRAVEL		40.8	42.8	45.0	47.2	49.6
300 CONTRACTUAL		31.8	33.4	35.1	36.8	38.7
400 SUPPLIES		3.6	3.8	4.0	4.2	4.4
500 EQUIPMENT		13.1	0	0	0	0
600 LAND & STRUCTURES		12.2	0	0	0	0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		253.3	239.4	251.5	264.0	277.3

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE		0	0	0	0	0
----------------	--	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND		253.3	239.4	251.5	264.0	277.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill will assist in the enforcement of licensure on the overwhelming increase of unlicensed construction contractors. The bill requires all violators to be answerable to a court of law and makes unlicensed activity a "Class A" misdemeanor.

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 10-1-84
 Approved by Commissioner: Loren H. Lounsbury Date: 1/18/85
 Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

100 PERSONAL SERVICES:

2 - Investigator III positions, Range 18A, General Government, 12 months, one to be located in Juneau, and one to be located in Anchorage	\$ 96,851.36
1 - Investigator III position, Range 18A, General Government, 12 months, to be located in Fairbanks	55,045.55
	\$151,896.91

200 TRAVEL:

FAIRBANKS INVESTIGATOR:

Transportation - 1 trip per month @ \$600.00 x 12 =	7,200.00
Per Diem - 8 days per month @ \$90.00 per day =	8,640.00

JUNEAU & ANCHORAGE INVESTIGATORS:

Transportation - 1 trip per month at \$400 ea x 12 =	9,600.00
Per Diem - 8 days per month @ \$80.00 per day ea. =	<u>15,360.00</u>
	\$40,800.00

300 CONTRACTUAL:

Postage, telephone and operating costs of three Investigators @ \$250.00 per month, per person =	9,000.00
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Investigator leased vehicles, dry with maintenance:

JUNEAU: 1 vehicle @ \$425.00 per month =	5,100.00
ANCHORAGE: 1 vehicle @ \$410.00 per month =	4,920.00
FAIRBANKS: 1 vehicle @ \$540.00 per month =	6,480.00

FUEL: Three leased vehicles at estimated \$175.00 per month, per investigator =	<u>6,300.00</u>
	\$31,800.00

typewriter ribbons, pens, pencils, tablets
and other miscellaneous desk top supplies for three
investigators at \$100.00 per month, per person =

\$ 3,600.00

500 EQUIPMENT: (One time costs only)

3 desks, double pedestal, 60" x 30" =	\$ 1,580.97
3 chairs, executive swivel with arms =	823.40
3 chairs, side without arms, contour style =	342.30
3 typewriters, IBM correcting selectric with dual pitch, 15.5 inch paper capacity =	4,313.40
3 typewriter tables =	359.85
3 desk calculators, desk, printing and display, 12 digit =	1,148.67
3 recording machines, Lanier, portable	2,443.98
3 book cases, with adjustable shelves =	459.78
3 file cabinets, 5 drawer, legal with lock =	<u>1,541.85</u>
	\$ 13,014.32

600 LAND & STRUCTURES: (One time costs only)

Office space for three Investigators:

JUNEAU: 150 sq. ft. @ \$2.25 per sq. foot =	4,050.00
ANCHORAGE: 150 sq. ft. @ \$2.00 per sq. foot =	3,600.00
FAIRBANKS: 150 sq. ft. @ \$2.50 per sq. foot =	<u>4,500.00</u>
	\$ 12,150.00

TOTAL OPERATING COSTS: \$253,361.24

1.	POSITION TITLE INVESTIGATOR III - Juneau			RANGE/STEP 18A	BARG. UNIT CCU	PAGE/LINE	COV.	APPROV.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION			
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position is necessary to implement the provisions the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.</p> <p>Current resources from the Department of Labor, Division Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the investigations and enforcement in the many other licensing and inspection areas.</p> <p>This position would conduct investigations into violation of AS 08.18, throughout the Southeast area of the State</p>			
5.	PERSONAL SERVICES							
5.	Salary		37.4					
6.	Benefits		6.0					
7.	Supplemental Benefits		2.3					
8.	Fired Benefits		2.7					
9.	TOTAL PERSONAL SERVICES	01		48.4				
10.	Travel		02	12.5				
11.	Contractual		03	10.2				
12.	Commodities		04	1.2				
13.	Equipment		05	4.7				
14.	Other			4.1				
15.	TOTAL COST			81.1				
16.	RECEIPT CODE	FUNDING SOURCE						
17.		Federal Receipts	1002					
18.		C.F. Match	1003					
19.		General Funds	1004	81.1				
20.		I-A Receipts	1005					
21.		Program Receipts	1028					
		Other						
FOR BSM USE ONLY KEY NUMBER _____								

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

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Revised Date _____

FY 8

1.	POSITION TITLE INVESTIGATOR III - Fairbanks				RANGE/STEP 18A	DEPT. UNIT CGU	PAGE/LINE	COV.	APPROV.		
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION JBA	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				<p>This position is necessary to implement the provisions of the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.</p> <p>Current resources from the Department of Labor, Division of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the more serious violations. This has been by increased investigations and enforcement in the many other licensing and inspection areas.</p> <p>This position would conduct investigations into violation of AS 08.18, throughout the South Central and Western areas of the State.</p>						
	1		2							3	
	PERSONAL SERVICES										
5.	Salary		42.8								
6.	Benefits		6.9								
7.	Supplemental Benefits		2.6								
8.	Fixed Benefits		2.7								
9.	TOTAL PERSONAL SERVICES		51							55.0	
10.	Travel		02							15.8	
11.	Contractual		0.							11.6	
12.	Commodities		04							1.2	
13.	Equipment		05							4.2	
14.	Other									4.5	
15.	TOTAL COST									92.3	
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		C.F. Match 1003									
18.		General Funds 1004		92.3							
19.		I-A Receipts 1005									
20.		Program Receipts 1020									
21.		Other									
FOR BSM USE ONLY KEY NUMBER _____											

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
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FY 8

1.	POSITION TITLE INVESTIGATOR III - Anchorage				RANGE/STEP 18A	BARG. UNIT GGU	PAGE/LINE	COV.	APPROV.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL				JUSTIFICATION				
4.	ADDITION								
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2		3					
	PERSONAL SERVICES								
5.	Salary	37.4							
6.	Benefits	6.0							
7.	Supplemental Benefits	2.3							
8.	Fringe Benefits	2.7							
9.	Total Personal Services		01	48.4					
10.	Travel	02		12.5					
11.	Contractual	03		10.0					
12.	Commodities	04		1.2					
13.	Equipment	05		4.2					
14.	Other			5.6					
15.	TOTAL COST			79.9					
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts 1002							
18.		C.F. Hatch 1003							
19.		General Funds 1004		79.9					
20.		I-A Receipts 1005							
21.		Program Receipts 1028							
21.		Other							
FOR BSM USE ONLY									
KEY NUMBER _____									

This position is necessary to implement the provision: the Construction Contractors Bill as it relates to pu protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem o unlicensed contractors.

Current resources from the Department of Labor, Divis of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupa Licensing, for enforcement have been overburdened and limited to the more serious violations. This has been caused by increased investigations and enforcement in many other licensing and inspection areas.

This position would conduct investigations into violat of AS 08.18, throughout the Northern Interior of the S

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
 PROGRAM Consumer Protection
 BRU Occupational Licensing
 COMPONENT Investigations

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FY

Bill No. House Bill No. 151

Date February 19, 1985

Title "An Act relating to construction contractors; and providing for an effective date."

Contact: Eileen Plate
465-2700
Robert J. Bacolas
465-4870

House Bill No. 151 seeks to strengthen the contractor licensing enforcement powers of the Department of Labor and Department of Commerce and Economic Development.

In addition to increasing the bonding requirements for both general and speciality contractors, the bill provides for the issuance of citations, assessment of civil penalties, and imposition of injunctive relief for violations of the contractor licensing laws.

The provisions of this bill are designed to combat the proliferation of unlicensed contractors in the state in order to better protect the public from unlicensed and unbonded construction contractors.

A section-by-section analysis of this bill, as excerpted from the Governor's transmittal letter, is attached.

The Department of Labor supports passage of House Bill No. 151. It will not have a fiscal impact on the Department.

APPROVED



Jim Robison, Commissioner
Department of Labor

House Bill No. 151
Section-by-Section Analysis

Section 1 imposes criminal and civil liability upon a general contractor for allowing an unlicensed specialty contractor to work for him or her. The unlicensed specialty contractor, of course, would also be in violation of the law as provided by existing statutes (AS 08.18.011(a)).

Section 2 prohibits registration during the period of a previous revocation or suspension of a contractor's license and until a fine imposed under this chapter has been paid.

Section 3 adds the requirement that all advertising, contracts, correspondence, cards, signs, posters, papers, and documents prepared by a contractor for the contractor's business include the mailing address and the address of his or her principal place of business, in addition to the already-required name and address. The bill also adds a new requirement that all advertising and contracts include the contractor's registration number.

Section 4 increases the bonding amount required for general contractors from \$5,000 to \$10,000 and for specialty contractors from \$2,000 to \$5,000.

Section 5 gives authority to investigators from the Department of Commerce and Economic Development and the Department of Labor to enter construction sites and issue citations for violations of the construction contracting laws, with special emphasis placed on licensing violations. The form and issuance of citation will be similar to that used by peace officers in their issuance of fish and game citations, park citations and traffic citations. Commerce and labor investigators will not have the authority to arrest, however.

Sections 6 and 7 of the bill work to give separate enforcement authority to the Department of Labor and the Department of Commerce and Economic Development in the issuance of a stop order.

Section 8 establishes that both departments can institute an injunctive proceeding in the superior court. It also sets out that, in addition to other relief and any criminal penalties that may be imposed, a civil penalty not to exceed \$250 may be imposed for each violation of AS 08.18, and that each day an unlawful act continues after an injunction has been issued constitutes a separate violation.

Section 9 provides that an unlicensed person acting in the capacity of a contractor, or a general contractor who hires an unlicensed specialty contractor, is guilty of a class B misdemeanor. A class B misdemeanor carries maximum penalties of 90 days in jail and \$1,000 fine. A criminal prosecution under AS 08.18 does not preclude the department from seeking civil remedies, as well. All other violations of AS 08.18, such as failure to put a mailing address on a business card, will be considered a violation and subject to a fine of no more than \$300.

Sections 10-12 pertain to definitions and effective dates. The bill provides for an immediate effective date for all sections except section 3. One of the main reasons for an immediate effective date is that the new bonding amounts will then be in force when new contractors register this spring and early summer. The amendments made by section 3 would require reprinting of documents used by contractors. The January 1, 1986 effective date for that section will allow current supplies to be used and arrangements to be made for reprinting.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 151
 Title: "An act relating to construction contractors..."
 Sponsor: Governor
 Requestor: House Labor and Commerce
 Date of Request: 2/15/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Labor Standards and Safety
Wage and Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ^{NS} Robert J. Bacolas, Sr. *R. Bacolas* Phone: 465-4870
 Division: Labor Standards and Safety Date: 2/19/85
 Approved by Commissioner: ^{NS} *Jim Robinson* Date: 2/19/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

February 7, 1985

Mike Davis, Representative
Pouch V
Juneau, AK 99811

Re: HB 151
Construction Contractors

Dear Representative Davis:

I wish to comment on the proposed HB 151, particularly on enforcement and protection to the public.

I support the proposal to have inspectors monitor contractors and the issuance of misdemeanor citations for violations under AS.08.18.11 and others under HB 151.

I would like to comment on proposed section AS.08.18.071(b). This section proposes to raise the bond from \$5,000 to \$10,000. This is good, but not enough. The bond amounts for a general contractor should be at a minimum \$25,000 and a specialty contractor \$10,000, and perhaps more. I have been exposed both personally as a litigant and professionally as a Trial Courts Clerk to law suits and the problems of people with contractors who because of error, negligence, poor business practice or greed have severely affected lives, monetary well being and the emotional health of people.

I can justify these bond increases very simply; houses cost \$70,000 to \$150,000 to build. A major construction problem or even a minor construction problem could exceed even the proposed bond. Additionally, it is not unlikely that more than one claim may be pending at any one time against a bad contractor. What protection does \$10,000 give?

Please consider my position. I urge you to raise the bond amounts in proposed HB 151 to an amount which will protect people.

Thank you.

Wayne W. Wolfe

Wayne W. Wolfe
P.O. Box 2380
Fairbanks, AK 99701

WWW/kg